

ITEM NO.25

Court 4 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition (Civil) No.1216/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH W.P.(C) No.1226/2020 (X)

W.P.(C) No.1403/2020 (X)

W.P.(C) No.175/2021 (X)

Date : 14-02-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

WP 1216/2020

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Ms. Deepika Kaliya, Adv.

WP 1226/2020

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WP 1403/2020

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WP 175/2021

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Mr. Priyash Sharma, Adv.
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Mr. Prabhat Ranjan, Adv.
Mr. Alabhya Dhamija, Adv.
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Ms. Gauri Desai, Adv.
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Mr. Karun Sharma, Adv.

Mr. Joseph Aristotle S., Adv.
Ms. Preeti Singh, Adv.
Ms. Nupur Sharma, Adv.
Mr. Sanjeev Kumar Mahara, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The Union of India through the Ministry of Housing and Urban Affairs has filed a compilation of additional documents containing, *inter alia*, a tabulated statement indicated the State-wise implementation of rules under the Real Estate (Regulation & Development) Act 2016.

- 2 On 4 November 2016, the Secretary to the Government of India in the Ministry of Housing and Urban Poverty Alleviation addressed a communication to all the Chief Secretaries stating that the Union government being the appropriate government for Union Territories without Legislatures has notified the Real Estate (Regulation and Development) (General) Rules 2016 and the Real Estate (Regulation and Development) (Agreement for Sale) Rules 2016. All the States were requested to forward copies of the rules as notified by them. A tabulated statement which has been placed on the record indicates that the General Rules and the Agreement for Sale Rules have been notified by most States. Compliance is yet to be effected, *inter alia*, by the State of West Bengal and by some of the North Eastern States, besides Jammu & Kashmir and Ladakh.
- 3 At the present stage, it is necessary for the Ministry of Housing to apprise the Court on whether the rules which have been framed by the States (i) contain the essential norms which have been adopted by the Union government in the Rules of 2016 referred to above; and (ii) whether there are any deviations which detract from the rights of flat purchasers. Ms Aishwarya Bhati, ASG submitted that in some states, such as Maharashtra there are variations occasioned by conditions prevalent and schemes such as the Slum Rehabilitation scheme. The states undoubtedly have to make provisions which tailor to conditions prevalent in each of them. But the basic protections afforded to purchasers must be across the country in accordance with the salutary purpose of the RERA.
- 4 To achieve the above object, the exercise should, in our view, be carried out by the Union Ministry of Housing which shall scrutinize the State rules and place a report before this Court on whether they comply with the substratum of the Rules of 2016 which have been framed by the Union government. This

exercise shall be carried out by consulting the Ministries of Housing of every state. Any provisions which deviate from the rules framed in 2016 must be identified State-wise so that they can be rectified.

- 5 The State of West Bengal must also immediately implement the RERA.
- 6 We also request Mr Devashish Bharuka, learned counsel to assist this Court as *Amicus Curiae*. Mr Bharuka shall also assist in carrying out the above exercise. Ms Aishwarya Bhati, learned Additional Solicitor General, who has suggested this course of action submits that all necessary facilities shall be granted to the *Amicus Curiae* who will be associated by the Union Ministry of Housing in preparing the report for submission before this Court on the aspects which are referred to above. This exercise be completed within a period of two months.
- 7 List the proceedings on 18 April 2022.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
COURT MASTER