

ITEM NO.57

COURT NO.2

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(s)(Civil) No(s).1216/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 57693/2022 - CLARIFICATION/DIRECTION
IA No. 157932/2021 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 157928/2021 - EXEMPTION FROM FILING O.T.
IA No. 22777/2022 - EXEMPTION FROM FILING O.T.
IA No. 15116/2022 - INTERVENTION APPLICATION
IA No. 157927/2021 - INTERVENTION APPLICATION
IA No. 150788/2021 - INTERVENTION APPLICATION
IA No. 15147/2022 - INTERVENTION APPLICATION
IA No. 15838/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No. 1226/2020 (X)
(FOR ADMISSION)

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

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

Date : 30-09-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

Mr. Devashish Bharuka, Adv. (A.C.)

For Petitioner(s) Mr. Ashwani Kumar Dubey, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Mr. Rajat Nair, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Durga Dutt, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Amrish Kumar, AOR
Ms. Indira Bhakar, Adv.

Mr. Mukesh Kumar Verma, Adv.
 Mr. Neeraj Kr.Sharma, Adv
 Mr. G.S. Makkar, AOR
 Mr. A.K. Sharma, AOR

Mr. Pinaki Misra, Sr. Adv.
 Mr. Rajesh P, AOR
 Mr. Manoranjan Sharma, Adv.
 Mr. Vineet Sinha, Adv.

M/s Karanjawala & Co., AOR

Mr. Abhimanyu Tewari, AOR
 Ms. Eliza Bar, Adv.

Ms. Diksha Rai, AOR

Mr. Manish Kumar, AOR
 Mr. Ravi Shanker Jha, Adv.

Mr. Sumeer Sodhi, AOR
 Mr. Devashish Tiwari, Adv.

Mr. Abhinav Mukerji, AOR

Dr. Manish Singhvi, Sr. Adv.
 Mr. Arpit Parkash, Adv.
 Mr. Vikalp Sharma, Adv.
 Mr. Sandeep Kumar Jha, AOR

Mr. Arunabh Chowdhury, Sr. Adv/AAG
 Ms. Pragya Baghel, Adv.
 Ms. Pallavi Langar, AOR
 Mr. Kumar Anurag Singh, Adv.
 Mr. Abhishek Roy, Adv.
 Mr. Aditya Kumar, Adv.
 Ms. Barnali Chowdhury, Adv.

Mr. V. N. Raghupathy, AOR
 Mr. Md. Apzal Ansari, Adv.
 Mr. Nandeesh, Adv.

Mr. Sunny Choudhary AOR

Mr. Aaditya A. Pande, AOR
 Mr. Siddharath Dharmadhikari, Adv.
 Mr. Bharat Bagla, Adv.

Mr. Avijit Mani Tripathi, AOR
 Mr. Upendra Mishra, Adv.
 Mr. T.K. Nayak, Adv.
 Mr. K.V. Kharyngdoh, Adv.

Mr. Daniel Lyngdoh, Adv.
Mr. P.S. Negi, Adv.

Mr. Kiran Kumar Patra, AOR

Mr. Surjendu Sankar Das, AOR
Ms. Annie Mittal, Adv.

Mrs. G. Indira, AOR

Mr. Vaibhav Niti, AOR

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Mr. Pukhrambam Ramesh Kumar, AOR

Mrs. K. Enatoli Sema, AOR
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Ms. Limayinla Jamir, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmdi, Adv.

Mr. Amol Chitale, Adv.
Mr. Ankur S. Kulkarni, AOR

Ms. Taruna Ardhendumauli Prasad, AOR

Mr. Sameer Abhyankar, AOR
Mr. Abhinav Mishra, Adv.
Ms. Nishi Sangtani, Adv.
Ms. Vani Vandana Chhetri, Adv.
Ms. Yeshi Rinchen, Adv.

Mr. Shailesh Madiyal, AOR

Mr. Mahfooz A. Nazki, AOR
Mr. Polanki Gowtham, Adv.
Mr. Shaik Mohamad Haneef, Adv.
Mr. T. Vijaya Bhaskar Reddy, Adv.
Mr. K.V. Girish Chowdary, Adv.
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Ms. Pooja Singh, Adv.
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Mr. Anil Grover, Sr. AAG
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 Mr. Ankit Raj, Adv.
 Mr. Vedansh Anand, Adv.
 Mr. Rudra Paliwal, Adv.
 Ms. Monika Gosain, AOR
 Mr. Noopur Singhal, Adv.
 Mr. Mishal Vij, Adv.

Ms. Jaspreet Gogia, AOR

Mr. Nupur Kumar, AOR
 Mr. Divyansh Tiwari, Adv.
 Ms. Diksha Dadu, Adv.

Mr. V. Krishnamurthy, Sr. Adv./AAG,
 Dr. Joseph Aristotle S., AOR
 Ms. Nupur Sharma, Adv.
 Mr. Shobhit Dwivedi, Adv.
 Mr. Sanjeev Kumar Mahara, Adv.
 MS. Richa Vishwakarma, Adv.

Mr. Nikhil Majithia, AOR

Mr. Mohammed Sadique T.A, AOR

Mr. Nishe Rajen Shonker, AOR

Mr. Shuvodeep Roy, AOR
 Mr. Arnav Singh Deo, Adv.

Mr. Naresh K. Sharma, AOR

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M/s Venkat Palwai Law Associates, AOR

Ms. Deepanwita Priyanka, AOR

Mr. Ajay Pal, AOR
 Mr. Mayank Dhaiya, Adv.
 Ms. Priyanka C, Adv.

Ms. Astha Sharma, AOR
 Mr. Ravinder Singh, Adv.
 Ms. Mantika Haryani, Adv.
 Ms. Deeksha Agrawal, Adv.

Mr. Sanjeev Kaushik, Adv.
Mr. Shreyas Awasthi, Adv.

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

- 1 Despite the previous order dated 12 August 2022 requiring the States/Union Territories to file their responses with the Union Ministry of Housing and Urban Affairs by 2 September 2022, the following States have not submitted their responses:

- (i) Andhra Pradesh;
- (ii) Chhattisgarh;
- (iii) Gujarat;
- (iv) Jharkhand;
- (v) Madhya Pradesh;
- (vi) Maharashtra;
- (vii) Manipur;
- (viii) Mizoram;
- (ix) Odisha;
- (x) Uttar Pradesh; and
- (xi) West Bengal.

- 2 On the other hand, thirteen States and two Union Territories have filed their responses.
- 3 The States which have not filed their responses shall do so positively within a period of four weeks from today, failing which the Principal Secretaries of the State Government in the Ministry of Urban Development/Affairs shall personally remain present before this Court on the next date of hearing to explain as to why they should not be proceeded with under the coercive arm of law.
- 4 A copy of the present order shall be communicated by the Secretary in the Ministry of Housing and Urban Affairs of the Government of India to their counter parts in the above eleven States which are yet to submit their responses.
- 5 Ms Deepanwita Priyanka, counsel appearing on behalf of the State of Gujarat, states that the response of the State of Gujarat has already been filed. If that be so, an additional copy of the response shall be furnished, within a period of one week, to the *amicus curiae*.
- 6 Ms Aishwarya Bhati, Additional Solicitor General, and Mr Devashish Bharuka, *amicus curiae*, have suggested the following road map:
- (i) Based upon the responses, the Central Government along with the *amicus curiae* would prepare a model agreement for sale containing -
- Part A: 'Core' clauses in consonance with the mandatory provisions of the Real Estate (Regulation and Development) Act 2016¹ for the protection of the home buyers. These clauses cannot be altered by any State/UT and must necessarily be a part of every agreement for sale.
- (ii) The above model agreement for sale with Part 'A' would be submitted for
- 1 "2016 Act"

consideration and approval of this Court; and

(iii) The States/Uts shall then incorporate in the agreement for sale-

Part B: Additional clauses based on individual needs and exigencies of each State/UT as permissible within the scheme of the 2016 Act. However, these clauses must not be contrary to or dilute in any manner the clauses in Part 'A'.

7 Mr Pinaki Misra, senior counsel appearing on behalf of Haryana CREDAI and Mr Amol Chitale, counsel appearing on behalf of Maharashtra CREDAI, would be at liberty to submit a brief note to the *amicus curiae* so that the suggestions of these bodies can be duly taken into account.

8 The proceedings shall now be listed on 28 November 2022.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR