

ITEM NO.54

COURT NO.3

SECTION XVII-A

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

Petition(s) for Special Leave to Appeal (C) No(s). 7636/2023

(Arising out of impugned final judgment and order dated 04-01-2023 in IA No. 91/2023 passed by the National Consumers Disputes Redressal Commission, New Delhi)

CASA GRANDE 2 BUYERS WELFARE ASSOCIATION

Petitioner(s)

VERSUS

M/S EARTHCON CONSTRUCTIONS PVT. LTD. & ORS.

Respondent(s)

(IA No. 217791/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 217794/2023 - CLARIFICATION/DIRECTION, IA No. 170212/2023 - CLARIFICATION/DIRECTION, IA No. 97062/2023 - INTERVENTION/IMPLEADMENT, IA No. 170188/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 71061/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 02-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s)

Mr. Fuzail Ahmad Ayyubi, AOR
Mr. Ibad Mushtaq, Adv.
Ms. Akanksha Rai, Adv.
Mr. Syed Mohammad Ashhar, Adv.
Mr. Arkam Pasha, Adv.

For Respondent(s)

Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Waseem Ahmed, Adv.
Mr. Sarthak Rana, Adv.
Mr. Rahul Gupta, AOR

Mr. Purushottam Sharma Tripathi, AOR
Mr. Amit, Adv.
Mr. Abhishek Tripathi, Adv.
Mr. Ravi Chandra Prakash, Adv.
Mr. Mukesh Kumar Singh, Adv.
Ms. Vani Vyas, Adv.

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

1. This petition challenges the order dated 4th January, 2023 passed by the National Consumer Dispute Redressal Commission (hereinafter referred to as the "NCDRC"), vide which the application for intervention filed by the present petitioner in the proceedings came to be rejected.
2. In a complaint filed by respondent Nos.2 to 42, they claimed refund of the amount deposited by them towards allotment of apartments.
3. In the said proceedings, the Casa Grande 2 Buyers Welfare Association seeks intervention, the same is rejected.
4. Ms. Vibha Datta Makhija, learned senior counsel appearing on behalf of respondent No.1 submits that respondent No. 1 is willing to refund the deposited amount upon cancellation of allotment of apartments in favour of respondent Nos. 2 to 42. She submits that upon cancellation of allotment, the flats would be offered to other purchaser(s) and the amounts would be repaid to the respondent Nos. 2 to 42 within a period of 180 days from the date of cancellation.
5. Learned counsel appearing for respondent Nos. 2 to 42 submits that the matter is already pending for final hearing before the learned NCDRC and is fixed for hearing on 22nd March, 2024. He submits that the said respondents would

consider the proposal for settlement when the matter is listed before the learned NCDRC.

6. We find that the claim of respondent Nos. 2 to 42 is for refund, whereas the claim of the present petitioner is for a direction to complete the project expeditiously and for possession within specified time.

7. We, therefore, find that there is no commonality of interest between the present petitioner and respondent Nos. 2 to 42.

8. If the petitioner has any grievance, nothing preclude it from initiating independent proceedings against the respondent No.1.

9. Taking into consideration the fact that there is a possibility of settlement between respondent No.1 and respondent Nos. 2 to 42, we trust that the learned NCDRC would attempt to dispose of the original complaint as expeditiously as possible on its own merits.

10. We, therefore, dismiss the present special leave petition, leaving question of law open.

11. Pending application(s), if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(ANJU KAPOOR)
COURT MASTER (NSH)