

ITEM NO.42

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCivil Appeal No.6044/2015

M/S UNITECH RESIDENTIAL RESORTS LTD.

Appellant(s)

VERSUS

ATUL GUPTA AND ANR.

Respondent(s)

(With appln. (s) for modification, updation of principal amount paid to unitech residential resorts ltd in your record and dismissal of appeal and exemption from filing c/c of the impugned order and permission to appear and argue in person and permission to file additional documents and stay and office report)

WITH C.A. Nos.6119-6148/2015

(With appln.(s) for substitution, correction, modification and direction, ex-Parte stay and permission to file additional documents and office report)

C.A. D 12512/2016

(With appln.(s) for condonation of delay in filing appeal and permission to appear and argue in person)

Date : 08/05/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s) Mr. Abhimanyu Bhandari, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Abhinav Agrawal, Adv.
Mr. Rajiv Virmani, Adv.
Mr. E. C. Agrawala, AOR

For Respondent(s) Mr. Pawanshree Agrawal, AOR
Mr. Akarsh Garg, Adv.

Ms. Nilofar Khan, AOR

Mr. Brajesh Kumar, AOR

Mr. Pashupathi Nath Razdan, AOR

Mr. Raghavendra S. Srivatsa, AOR

Mr. Sonal Jain, AOR

Ms. Manju Jetley, AOR

Ms. Shakun Sharma, AOR

Mr. Ranjan Kumar Pandey, AOR

Respondent-in-person

Mr. Abhijat, Adv.

Dr. Saif Mehmood, Adv.

Mr. Pratyush Sharma, Adv.

Mr. Sarvesh Singh, Adv.

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

I.A. No.63/2017 in C.A. No.6140/2015

This is an application for substitution.

Having heard learned counsel for the applicant,
prayer for substitution stands allowed.

C.A. No.6044 of 2015

It is submitted by Mr. Abhimanyu Bhandari, learned counsel appearing for the appellant that as per the orders passed on the earlier occasions, the principal amount along with interest has been deposited before the Registry of this Court. Let the said amount be distributed on *pro rata* basis amongst the respondents. Mr. Pawan Shree Agarwal, learned counsel appearing for some of the respondents and also assisting the Court, shall remain present at the time of disbursement of the amount so that there will be proper identification.

Be it noted, Mr. Bhandari, learned counsel for the appellant submits that on the earlier occasion the appellant

had made a mistake in his submission by stating that it will give interest from 2010 as some of the flat buyers have entered into the agreement in 2012. As we are directing distribution on *pro rata* basis, the issue of computation of interest on the percentage basis shall be taken up at the time of final disposal and, at that juncture, the submission of Mr. Bhandari shall be considered.

It is further directed that during the pendency of this case, the financing bank shall not release the original documents in favour of the flat buyers who are taking their money back. We have passed this direction so that an equitable situation exists. Needless to say, the grant of interest is conceptually a grant of compensation. Though the Court has used the term 'interest' for the purpose of percentage, how the compensation will be computed, the same shall be considered at the time of final hearing.

Mr. Pawan Shree Agarwal and Mr. Abhimanyu Bhandari, learned counsel shall assist the Registry to reconcile the amount.

The personal presence of the Managing Director and all the Directors of the Unitech Limited stands dispensed with for the present.

Let these matters be listed in the second week of August, 2017.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master