

V5SLP 14314/2014

1

ITEM NO.40

COURT NO.2

SECTION XI

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.14314/2014  
(Arising out of impugned final judgment and order dated 11/04/2014  
in WP No. 65085/2012 passed by the High Court of Judicature at  
Allahabad)

DHIRENDER SHARMA & ORS.

Petitioner(s)

VERSUS

EMERALD COURT OWNER RES.WEL.ASSOC.& ORS.

Respondent(s)

(With appln. (s) for directions and impleadment and interim relief  
and office report)

WITH S.L.P.(C) No.21035/2014

(With appln.(s) for directions and Office Report)

S.L.P.(C) No.31117/2014

S.L.P.(C) No.11959/2014

(With appln.(s) for impleadment and permission to submit additional  
document(s) and office report)

S.L.P.(C) No.14262/2014

(With interim relief and office report)

S.L.P.(C) No.12470/2014

(With appln.(s) for exemption from filing O.T. and interim relief  
and office report)

S.L.P.(C) No.12947/2015

(With office report)

S.L.P.(C) No.12948/2015

(With interim relief and office report)

Date : 27/03/2017 These petitions were called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE DIPAK MISRA

HON&#39;BLE MR. JUSTICE A.M. KHANWILKAR

Mr. P.S. Narasimha, ASG (A.C.)

For Petitioner(s) Dr. Rajeev Dhawan, Sr. Adv.

Mr. T. V. S. Raghavendra Sreyas, AOR

Ms. Gayatri Gulati Sreyas, Adv.

SLP 14314/2014

2

SLP 21035/14 & Mr. Huzefa Ahmadi, Sr. Adv.

SLP 31117/14 M r. M. Shoeb Alam, AOR

Ms. Fauzia Shakil, Adv.

Mr. Ujjwal Singh, Adv.

Mr. Mojahid Karim Khan, Adv.

SLP 11959/14 Mr. Gopal Subramaniam, Sr. Adv.

Mr. A.S. Chandhiok, Sr. Adv.

Mr. R. Chandrachud, AOR

Mr. Nitin Thukral, Adv.

Mr. Rajnish Singh, Adv.

Mr. Keshav Mohan, Adv.

SLP 14262/14 Mr. Somiran Sharma, AOR

SLP 12470/14 Mr. Dushyant Dave, Sr. Adv.

Mr. Ravindra Kumar, AOR

SLP 12947/15 Mr. Ashish Rana, AOR

SLP 12948/15 Mr. Shakil Ahmed Syed, AOR

Mohd. Parvez Dabas, Adv.

Uzmi Jameel Husain, Adv.

For Respondent(s) Mr. Abraham Mathews, Adv.

Ms. Mahima Gupta, AOR

Mr. Amit Anand Tiwari, AOR

Mr. Suchit Mohanty, Adv.

Mr. Anupam Lal Das, AOR

Mr. P.N. Misra, Sr. Adv.

Ms. Alka Sinha, Adv.

Mr. Anuvrat Sharma, AOR

Mr. S.A. Haseeb, Adv.

Mr. M. Rambabu, Adv.

Mr. B. Krishna Prasad, AOR

Mr. Jayant Bhusan, Sr. Adv.  
Mr. Milind Kumar, AOR  
Mr. P. K. Jain, AOR  
Mr. Saurabh Jain, Adv.  
Mr. P.K. Goswami, Adv.  
Mr. S.P. Singh Rathore, Adv.  
Mr. Ashok K. Sharma, Adv.  
Mr. Uday Prakash Yadav, Adv.  
Mr. H. Arjun, Adv.  
Mrs. Anuradha Soni Verma, Adv.

SLP 14314/2014

3

Mr. Akhilesh Kr. Pandey, Adv.  
Mr. Rajeev Singh, AOR  
Mr. Aditya Kr. Choudhary, Adv.  
Mr. Ravindra Kumar, AOR  
Mr. Ravi Prakash Mehrotra, AOR  
Mr. Shantanu Krishna, AOR  
Mr. Faisal Sherwani, Adv.  
Ms. Babita Kushwaha, Adv.

Mr. Gopal Subramaniam, Sr. Adv.  
Mr. A.S. Chandhiok, Sr. Adv.  
Mr. R. Chandrachud, AOR  
Mr. Nitin Thukral, Adv.  
Mr. Rajnish Singh, Adv.  
Mr. Keshav Mohan, Adv.  
Mr. Vinay Garg, AOR  
Mr. Tanmaya Agarwal, Adv.  
Mr. Deepam Garg, Adv.  
Ms. Bina Gupta, AOR  
Mr. Tarun Gupta, AOR  
Mr. Vishwa Pal Singh, AOR

Mr. Gaurav Kejriwal, AOR

UPON hearing the counsel the Court made the following

#### O R D E R

This Court on 11 th January, 2017, after noting the submissions of learned counsel for the parties, had passed the following order:-

â S It is submitted by learned counsel appearing for the newly impleaded parties that the benefits that have been extended to the investors vide order dated 06.09.2016 should also be extended to them. Having heard learned counsel for the petitioner in S.L.P.(C) No.11959 of 2014, and regard being had to the principle of parity, we direct to extend the same benefit to the newly impleaded parties as well as to all the persons who have booked

SLP 14314/2014

4

their flats. Be it noted that we are passing this order as we do not want this Court to be flooded with application for impleadment to extend them the same benefit. All the persons who have booked their flats shall be entitled to this benefit if an application is given to the developer.â \235

Be it noted, in pursuance of the order passed on that day, a sum of Rs.5,00,00,000/- (Rupees five crores only) has already been deposited. The amount so deposited shall be kept in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi, so that interest can be accrued on the same.

At this juncture, it is submitted by the learned counsel appearing for some of the petitioners and the newly

impleaded parties that the amount has not yet been refunded, though they have made applications before the developer. Dr. Rajeev Dhawan and Mr. Gopal Subramanian, learned senior counsel appearing for the developers have submitted, on instructions, that if the said applications are given to Mr. Keshav Mohan, learned counsel, the said applications shall be dealt with within four weeks hence and the principal amount shall be refunded. When we direct that principal amount shall be refunded, we mean that the quantum of interest shall be determined at a later stage. As far as the justifiability of the order of the High Court is concerned, the same shall be adverted to considering the report of the National Buildings Construction Corporation Ltd. (NBCC), the plans sanctioned by the NOIDA authority and the contentions raised by Mr. Jayant Bhushan, learned senior counsel appearing for the writ petitioner before the High Court.

SLP 14314/2014

5

Mr. Keshav Mohan, learned counsel shall file an affidavit of compliance of the developer that the amount as directed by us has been paid, within seven weeks from today. Learned counsel appearing for the parties are at liberty to file their objections/reply to the report submitted by the NBCC.

Let the matter be listed for final hearing on 9<sup>th</sup>

August, 2017.

(Chetan Kumar)

Court Master (Shakti Parkash Sharma)

Court Master