

PROCEEDINGS OF THE DAY		21
Day and Date	Tuesday and 22.11.2022	
Complaint No.	CR/4793/2021 Case titled as Sikha Gupta and Sunita Rani Vs AKME projects limited & Grand Star Reality Private Limited	
Complainant	Sikha Gupta and Sunita Rani	
Represented through	Shri Vijender Parmar Advocate	
Respondent	AKME projects limited & Grand Star Reality Private Limited	
Respondent Represented through	Shri Rajat Kadyan Adv. for R1 (POA filed today) Ms. Divya Sharma Adv. for R2	
Last date of hearing	27.09.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings		
The present complaint has been received on 06.12.2021 and the reply on behalf of respondent no. 1 & no. 2 was received on 11.03.2022 & 25.03.2022 respectively. The complainant has sought relief of delayed interest at the prescribed rate on the amount paid so far to the respondent No.1 on account of delay in handing over of the possession During arguments, the counsel for the respondent no.1 states that :- • The respondent no. 1 i.e. Akme Projects Limited (hereinafter, R1) has gone under Corporate Insolvency Resolution Process vide orders dated 18.04.2018. • The complainant has submitted her claim amounting to Rs.65,57,719 before the IRP. • The said project of the R1 was mortgage with Yes Bank Limited (called for auction on 10.11.2015) and vide auction dated 02.04.2016 under SARFAESI Act, 2002, the said project was sold to respondent no. 2 on 17.06.2016 i.e. Grandstar Realty Private Limited (hereinafter, R2) wherein as per sale notice, the said project , R2 was required to deposit the administrative charges regarding change of developer.). • Respondent no.1 challenged the auction dated 3.5.2016 before initiation of CIRP and sale conducted by YES bank in Debt Recovery Tribunal-II on the ground that YES bank conducted the auction on the basis of low valuation of the mortgage property and the restraining orders passed by the Ld.Civil Judge, Gurugram dated		



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CRP/19/221

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विमान गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

2.5.2016 and Hon'ble High Court orders dated 3.5.2016 for staying the auction . Respondent NO.2 M/s Grand star filed appeal on 23.1.2019 for setting aside the auction sale deed dated 3.5.2016 conducted by YES bank as being vitiated by fraud . The DRT-II New Delhi vide its order dated 7.1.2020 dismissed the SA No.148 of 2017 of the respondent no.1 and IA no.145/2019 of the respondent no.2 and confirmed the sale made by YES Bank to respondent no.2 of the said project .

- The RP of the answering respondent no.1 preferred Regular appeal no.30 of 2020 before the Hon'ble Debt Recovery Appellate Tribunal against the orders of DRT dated 7.1.2020. The respondent no.2 has also filed appeal before the Debt Recovery Tribunal against the orders which was dismissed on 7.6.2021 with the liberty to approach DRT by way of filing independent securitization application. Accordingly respondent no.2 has approached to DRT for setting aside the sale on the ground that YES bank has played fraud . This case is pending adjudication .
- That CIRP has approached NCLT for extension of the period of 90 days which was dismissed on 2,11,2021. Aggrieved by the said orders, an appeal has been filed before NCLAT which is pending.
- Mr Arun Anand has filed appeal before Apex court against orders dated 22.9.2021 passed by NCLAT against the interim order dated 6.1.2022 directing all parties to maintain status quo till the next date of hearing in respect of proceedings of CIRP of respondent No.1.

It is further submitted that by the respondent no.2 that -

- The counsel for respondent No.2 states that very auction in favour of them by YES bank was a fraudulent transaction because the license was part of a CBI investigation which was seized by the CBI and took a plea that there was stay on construction of project from 2015 under Rameshwar & Ors. Vs State of Haryana and the same was lifted on 2018 when it was made clear that the said part of land is not covered under it.
- Respondent NO.2 M/s Grand star filed appeal on 23.1.2019 for setting aside the auction sale deed dated 3.5.2016 conducted by YES bank as being vitiated by fraud . The DRT-II New Delhi vide its order dated 7.1.2020 dismissed the SA No.148 of 2017 of the respondent no.1 and IA no.145/2019 of the respondent no.2 and confirmed the sale made by YES Bank to respondent no.2 of the said project .
- That Writ petition no.9229 of 2016 filed by respondent no.1 in the Hon'ble High Court Delhi challenging the proceedings of the auction sale of the said project by YES bank to respondent no.2 and a stay order was passed by the Delhi High Court . The said orders remained in force till 1.9.2017 when the Delhi high Court dismissed the said appeal.
- Apart from the above, an order dated 24.4.2015 had been passed by the Apex Court

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियामक और विकास) अधिनियम, 2016 की धारा 20 के अंतर्गत गठित प्राधिकरण



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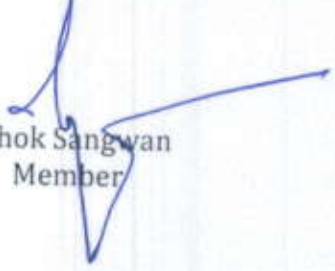
staying any construction on the land in question in Civil Appeal No.8788 of 2015 titled as Rameshwar and others Versus State of Haryana and others. The Flat buyers association in the present project has filed applications for impleadment praying to exempt the said land from the purview of order dated 13.10.2020.

Part argument heard.

The counsel for the complainant is directed to submit written submissions within 15 days with an advance copy to the counsel for the respondents.

Matter to come up on 13.1.2023 for further arguments.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
22.11.2022