

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

Contempt Petition (C) No 463 of 2021

In

Civil Appeal No 3670 of 2020

Shaheena Chadha and Another

...Petitioner(s)

Versus

M/s IREO Grace Realtech Pvt Ltd and Others

...Respondent(s)

ORDER

- 1 By an order dated 28 August 2020, the National Consumer Disputes Redressal Commission allowed the consumer complaint, being Consumer Case No 303 of 2018, instituted by the petitioners and directed the respondents to refund an amount of Rs 62,31,906 together with interest at the rate of 9% per annum from the date of respective deposits till actual payment. The order was directed to be complied with within a period of sixty days.
- 2 The order of the NCDRC was upheld by this Court on 5 January 2021 in Civil Appeal No 3670 of 2021. While dismissing the appeal, this Court directed that compliance be made within a period of two months.

- 3 Miscellaneous Application No 628 of 2021 was taken out by the developer for modification of the order dated 5 January 2021. The application for modification was dismissed on 19 April 2021, but time for making payment was extended by a period of one week.
- 4 Payment was not made either as envisaged in the original order of this Court dated 5 January 2021 or within the extended time which was granted on 19 April 2021. This resulted in the institution of contempt proceedings.
- 5 During the course of the hearing, Ms Roohina Dua, learned counsel appearing on behalf of the respondent-contemnors states that an amount of Rs 58.20 lakhs has been transferred to the petitioners by RTGS today and a demand draft in the amount of Rs 50 lakhs is ready for being transmitted to them.
- 6 There is no justification for non-compliance with the order of this Court dated 5 January 2021, which had directed the contemnors to effect payment within a period of two months. That apart, even when the application for modification was dismissed, a period of one week was granted for compliance. Evidently, the orders of this Court have not been taken seriously by the developer and it is only after institution of the contempt proceedings, that a transfer through RTGS has been made. Even that transfer funds is of only a partial amount of Rs 58.20 lakhs while it is stated that a demand draft for the balance of Rs 50 lakhs is now prepared for onward transmission. The learned counsel for the contemnors has tendered an apology for the delay.

- 7 We find the apology to be unacceptable. Every strategy has been resorted to by the developer to avoid complying with the directions of this Court. Those directions were issued as far back as on 5 January 2021 and an extension was granted thereafter by the order dated 19 April 2021. Even thereafter, nearly a period of four months has elapsed and the consumer has been compelled to come back to this Court by instituting a contempt proceeding. Therefore, there has been a clear, willful and intentional breach of the orders passed by this Court. The respondents are in contempt. The lack of bona fides is apparent from the fact that there is no reason or justification to pay over only a portion of the decretal amount by RTGS. If the developer was serious about complying with the orders even at this stage, the entire amount would have been paid over through RTGS before the proceedings were listed before this Court.
- 8 We direct that the entire amount which is due and payable in terms of the order of the NCDRC inclusive of interest as of date shall be paid over to the petitioners by RTGS by the end of business hours today by issuing necessary instructions to the bank.
- 9 Apart from the above, we are of the view that a deterrent penalty should be imposed on the respondent-contemnors to ensure that they realize the need to comply with the order of courts without exception. The petitioners shall be paid costs quantified at Rs 2 lakhs for the expenses which have been

incurred in these proceedings. In addition, an amount of Rs 15 lakhs shall be deposited by the respondents with the National Legal Services Authority within a period of two weeks from today.

- 10 An affidavit of compliance in regard to the payment of the balance to the petitioners inclusive of interest and costs as directed above and the deposit of Rs 15 lakhs with NALSA shall be filed within a period of two weeks with the Registry of this Court, failing which the proceedings shall be listed for directions. In the event of any further default the court will be constrained to set the proceedings down for sentence.
- 11 The Contempt Petition is disposed of in the above terms.
- 12 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[M R Shah]

New Delhi;
August 19, 2021
CKB

