

ITEM NO.5

Court 5 (Video Conferencing)

SECTION XIV

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.12150/2019

(Arising out of impugned final judgment and order dated 27-03-2019 in CM(M) No.494/2019 passed by the High Court of Delhi at New Delhi)

ANJALI RATHI & ORS.

Petitioner(s)

VERSUS

TODAY HOMES AND INFRASTRUCTURE PRIVATE
LIMITED & ORS.

Respondent(s)

(With appln.(s) for TRANSPOSITION, APPROPRIATE ORDERS/DIRECTIONS, CLARIFICATION/DIRECTION, DELETING THE NAME OF PETITIONER/RESPONDENT, EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and VACATING STAY)

WITH Diary No.45043/2019 (XVII)

(With appln.(s) for I.R. and EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, PERMISSION TO FILE PETITION SLP and PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. Nos.5231-5238/2019 (XVII-A)

(With appln.(s) for EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 08-07-2021 These matters were called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH**

For Petitioner(s)

Mr. Pawanshree Agrawal, AOR

For Respondent(s)

**Mr. Himanshu Satija, Adv.
Mr. E. C. Agrawala, AOR**

For R-2 to 6

**Mr. Manoj Yadav, Adv.
Mr. Ranbir Singh Yadav, AOR**

For R-7

Mrs. Shally Bhasin, AOR

**Mr. Aditya Parolia, Adv.
Mr. Piyush Singh, Adv.
Mr. Nithin Chandran, Adv.
Mr. Aditi Sinha, Adv.
Mr. Akshay Srivastava, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Gaurav Goel, AOR**

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

- 1 We have heard Mr Pawanshree Agrawal, learned counsel appearing on behalf of the petitioners and Mr Himanshu Satija, learned counsel appearing on behalf of the respondent No 1, Resolution Professional and Mr Manoj Yadav, learned counsel appearing on behalf of another group of home buyers in the same interest as the petitioners
- 2 Counsel for the Resolution Professional has stated that the proceedings before the NCLT under the Insolvency and Bankruptcy Code were initiated on 30 October 2019, when an order of moratorium came into operation. The appointment of the Resolution Professional was confirmed by the Committee

of Creditors on 9 January 2020. The Committee of Creditors consists only of the representatives of the home buyers, there being no financial institution involved.

- 3 Two resolution plans are stated to have been received on 5 July 2021. The Resolution Professional obtained an order of extension from the NCLT consequent upon the onset of the Covid-19 pandemic and the period of 330 days for completing the resolution process is to expire on 20 August 2021. In this backdrop, it has been submitted on behalf of the Resolution Professional that the proceedings may be allowed to stand over until a date beyond 20 August 2021. In the meantime, it has been stated that all the petitioners have also submitted their claims to the Resolution Professional.
- 4 Mr Pawanshree Agrawal, learned counsel submitted that out of 583 flats, 520 have been sold and the ten petitioners in the two Special Leave Petitions before this Court comprise a small proportion of the flat purchasers. Moreover, it has been submitted that the order of this Court dated 11 September 2019 was passed before the initiation of proceedings under the Insolvency and Bankruptcy Code and, consequently, irrespective of the status of the Corporate Debtor, the promoters who led the petitioners to enter into settlements and to this Court directing that the settlements be implemented, cannot escape liability. This aspect shall be considered on the next date of listing.
- 5 In the meantime, we direct that a meeting of the Committee of Creditors shall be convened within a period of two weeks from today so that a final decision can be taken on whether any of the resolution plans are acceptable to the Committee of Creditors.
- 6 List the matter on 29 July 2021.
- 7 Ms Aditi Sinha, learned counsel appearing on behalf of the applicants in IA No

44253 of 2020 submits that the Interlocutory Application may be listed on the next date of hearing since the applicants are home buyers who are similarly placed as the petitioners. The Interlocutory Application shall be placed together with the main proceedings on the next date of hearing.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
BRANCH OFFICER