

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3775 OF 2020

ASHOK KUMAR & ANOTHER

Appellants

VERSUS

MANAGING DIRECTOR,  
MAHALAXMI BUILDTECH CONSORTIUM PVT. LTD.

Respondent

**ORDER**

1. The appellants raised certain grievances which could be classified under following two categories:

- a. Grievances which pertained to the deficiency in services pertaining to the facilities that ought to have been provided in the apartment of the appellants.
- b. Certain common facilities which the entire Society or the Complex ought to have been given by the Builder/Developer.

2. While dealing with Consumer Case No.1503 of 2017 with respect to the matters arising under the first category, the National Commission dealt with the matter as under:-

“9. He therefore argued that OP be directed to address these two major deficiencies viz. the main gate and the swimming pool, and to, as per the written plaint, pay the complainant (i) Rs 30,00,000/- for mental agony etc, (i) Rs. 1,00,000/- as litigation charges; (i) Rs. 10,00,000/- towards interest paid by

the complainant on home loan, and (iv) interest on the amount: paid to the OP @ 18% per annum pendent.

... ..

11. As far as items related to the flat itself are concerned, of his own admission, only the following defects remain:

- (i) Application for plastic emulsion instead of distemper in certain areas;
- (ii) Powder coated aluminium glazing in windows.

Insofar as these items specific to the complainants flat are concerned, it is directed that OP provide plastic emulsion on the areas as provided in the check list at the time of possession and also provide aluminium glazing in the window as promised.

... ..

13. In view of the brief discussion above, this consumer complaint is partly allowed with direction to the OP to make good the deficiency in service established in respect of providing plastic emulsion and aluminium glazing in windows, as promised and as provided in the check list at the time of possession. It is further directed that these be completed, within three months of the date of receipt of this order.”

3. While dealing with matters in the second category, the National Commission observed as under:-

“12. Coming to the main gate and the swimming pool, these are admittedly common facilities relating to the entire society and all the occupants therein, and therefore, any direction on these cannot be justly passed in the absence of the other complainants and the OP. These are deficiencies to be addressed by the project Society and the OP. No order can be passed on these two matters on the basis of this individual complaint.”

4. Considering the nature of grievances raised by the appellants, we make it clear that in case any of the matters pertaining to the deficiencies in the second category are

raised by way of a class action before any appropriate forum or authority, the challenge shall be considered on its own merits without being influenced by disposal of Consumer Case No.1503 of 2017 by the National Commission.

5. With these observations, the instant Civil Appeal is disposed of, with no order as to costs.

.....J.  
(UDAY UMESH LALIT)

.....J.  
(S. RAVINDRA BHAT)

.....J.  
(PAMIDIGHANTAM SRI NARASIMHA)

New Delhi,  
February 25, 2022.

ITEM NO.25

COURT NO.2  
(HEARING THROUGH VIDEO CONFERENCING)

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.3775/2020

ASHOK KUMAR &amp; ANR.

Appellant(s)

VERSUS

MANAGING DIRECTOR,  
MAHALAXMI BUILDTECH CONSORTIUM PVT. LTD.

Respondent(s)

(FOR ADMISSION)

Date : 25-02-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s) Petitioner-in-person

For Respondent(s) Mr. Kedar Nath Tripathy, AOR  
Mr. Ansuji Dhingra, Adv.  
Mr. Bhuwan Raj, Adv.  
Ms. Smruti Dash, Adv.UPON hearing the counsel the Court made the following  
O R D E RThe Civil Appeal is disposed of, in terms of the Signed Order  
placed on the file.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)  
COURT MASTER(VIRENDER SINGH)  
BRANCH OFFICER