

CORRECTED

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4284 OF 2017
(Arising out of S.L.P. (C) No. 36341 of 2013)

PRADIP DUTTA

Appellant(s)

Versus

SWAPAN KUMAR GHOSH AND OTHERS

Respondent(s)

O R D E R

1. We have heard learned counsel for the parties.
2. Leave granted.
3. This appeal by special leave is directed against the judgment and order dated 29.5.2013 passed by the National Consumer Disputes Redressal Commission, New Delhi (in short 'the NCDRC') in Revision Petition No. 4385 of 2012, wherein the NCDRC had passed relief in nature of specific performance. The relief which was granted by the NCDRC is reproduced as under-

The Revision Petition stands accepted. Respondents are directed to execute the title deeds within 60 days otherwise they will pay the penalty of Rs.25,000/- per month till the needful is done. Litigation charges and compensation is directed to be paid in the sum of Rs.1,00,000/- within 60 days otherwise

it will carry interest @ 9% per annum.

(emphasis supplied)

4. On 3.1.2017, when the matter was taken up for hearing, this Court made the following order :-

"Learned counsel appearing on behalf of Respondent Nos. 1 and 2 in all fairness agreed that the Commission could not have issued direction to the petitioner-herein to execute the title deed. He, however, submits that the matter may be remanded back to the National Consumer Disputes Redressal Commission for examining the other issues including to refund the amount or hand over the possession of alternative premises.

Although Respondent Nos. 3 to 6 and 8 have been served, but none appears for the unserved respondents.

Issue fresh notice returnable within six weeks to the said respondents indicating that the matter will be finally disposed of on the next date of hearing.

Dasti in addition is permitted.

We make it clear that we have not expressed any opinion on the correctness of the above submissions or any other submissions which may be dealt with at the appropriate stage."

5. We have perused the office report dated 9th March, 2017, which indicates that although Respondent Nos. 3 to 6 and 8 were

served through registered A.D. post as well as through dasti, Respondent Nos. 3 to 6 have refused to accept notice. Therefore, the service on Respondent Nos. 3 to 6 is deemed to be complete.

6. In the facts and circumstances of the case, learned counsel for both the parties agreed that the impugned order needs to be set aside and the matter be remanded back to the National Consumer Disputes Redressal Commission, New Delhi for fresh reconsideration of the matter.

7. Accordingly, we set aside the impugned order and remand back the matter to the National Consumer Disputes Redressal Commission, New Delhi for fresh adjudication.

8. The appeal is, accordingly, disposed of.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

New Delhi,
March 10, 2017

REVISED

ITEM NO.33

COURT NO.11

SECTION XVII

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

Petition(s) for Special Leave to Appeal (C) No(s). 36341/2013

(Arising out of impugned final judgment and order dated 29/05/2013 in RP No. 4385/2012 passed by the National Consumers Disputes Redressal Commission, New Delhi)

PRADIP DUTTA

Petitioner(s)

VERSUS

SWAPAN KUMAR GHOSH & ORS

Respondent(s)

(with appln. (s) for permission to file additional documents and interim relief and office report)

Date : 10/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Subrata Das, Adv.

Ms. Uma Prasuna, Adv.

Mr. N. Rajaraman, Adv.

For Respondent(s)

Mr. Sanjoy Kr. Ghosh, Adv.

Ms. Rupali S. Ghosh, Adv.

Mr. Deba Prasad Mukherjee, Adv.

For RR-8

Mr. Reegan S. Bel, Adv.

Ms. K.R. Chitra, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

[SUKHBIR PAUL KAUR]

A.R.-CUM-P.S.

(Corrected Signed order is placed on the file)

[S.S.R. KRISHNA]

ASSISTANT REGISTRAR

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4248 OF 2017
(Arising out of S.L.P. (C) No. 36341 of 2013)

PRADIP DUTTA

Appellant(s)

Versus

SWAPAN KUMAR GHOSH AND OTHERS

Respondent(s)

O R D E R

9. We have heard learned counsel for the parties.

10. Leave granted.

11. This appeal by special leave is directed against the judgment and order dated 29.5.2013 passed by the National Consumer Disputes Redressal Commission, New Delhi (in short 'the NCDRC') in Revision Petition No. 4385 of 2012, wherein the NCDRC had passed relief in nature of specific performance. The relief which was granted by the NCDRC is reproduced as under-

The Revision Petition stands accepted. Respondents are directed to execute the title deeds within 60 days otherwise they will pay the penalty of Rs.25,000/- per month till the needful is done. Litigation charges and compensation is directed to be paid in the sum of Rs.1,00,000/- within 60 days otherwise

it will carry interest @ 9% per annum.

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12. On 3.1.2017, when the matter was taken up for hearing, this Court made the following order :-

"Learned counsel appearing on behalf of Respondent Nos. 1 and 2 in all fairness agreed that the Commission could not have issued direction to the petitioner-herein to execute the title deed. He, however, submits that the matter may be remanded back to the National Consumer Disputes Redressal Commission for examining the other issues including to refund the amount or hand over the possession of alternative premises.

Although Respondent Nos. 3 to 6 and 8 have been served, but none appears for the unserved respondents.

Issue fresh notice returnable within six weeks to the said respondents indicating that the matter will be finally disposed of on the next date of hearing.

Dasti in addition is permitted.

We make it clear that we have not expressed any opinion on the correctness of the above submissions or any other submissions which may be dealt with at the appropriate stage."

13. We have perused the office report dated 9th March, 2017, which indicates that although Respondent Nos. 3 to 6 and 8

were served through registered A.D. post as well as through dasti, Respondent Nos. 3 to 6 have refused to accept notice. Therefore, the service on Respondent Nos. 3 to 6 is deemed to be complete.

14. In the facts and circumstances of the case, learned counsel for both the parties agreed that the impugned order needs to be set aside and the matter be remanded back to the National Consumer Disputes Redressal Commission, New Delhi for fresh reconsideration of the matter.

15. Accordingly, we set aside the impugned order and remand back the matter to the National Consumer Disputes Redressal Commission, New Delhi for fresh adjudication.

16. The appeal is, accordingly, disposed of.

.....J.
(N.V. RAMANA)

.....J.
(PRAFULLA C. PANT)

New Delhi,
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[S.S.R. KRISHNA]
ASSISTANT REGISTRAR

(Signed order is placed on the file)