

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

Contempt Petition (Civil) No 923 of 2021

in

Civil Appeal No 5042 of 2021

Jatin Vardi & Ors

... Petitioner(s)

Versus

Mohit Arora

... Respondent(s)

WITH

CONMT.PET.(C) No. 924/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 925/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 926/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 927/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 928/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 937/2021 in C.A. No. 5041/2021

CONMT.PET.(C) No. 978/2021 in C.A. No. 5041/2021

CONMT.PET.(C) No. 972/2021 in C.A. No. 5045/2021

CONMT.PET.(C) No. 971/2021 in C.A. No. 5042/2021

CONMT.PET.(C) No. 967/2021 in C.A. No. 5041/2021

CONMT.PET.(C) No. 968/2021 in C.A. No. 5041/2021

CONMT.PET.(C) No. 979/2021 in C.A. No. 5041/2021

ORDER

- 1 The apartment buyers have moved these proceedings, invoking the contempt jurisdiction, on the ground that the developer, Supertech Ltd, has failed to effect refunds to the flat buyers with interest, as directed in the judgment of this Court dated 31 August 2021. The bone of contention in the contempt petitions is in regard to payments described as 'ROI payments' made by the developer.
- 2 Mr S Ganesh, senior counsel appearing on behalf of the developer, submits that the ROI payments were made at a time when the agreements with the home buyers were in existence. The agreements, it is urged, stand effaced consequent upon the judgment of this Court directing the demolition of the two towers passed by this Court. Hence, it has been urged on behalf of the developer that the ROI payments which were made by the developer must first be set off against the outstanding principal, on the analogy of the provisions of Sections 59 and 60 of the Indian Contract Act 1872. Consequently, it has been submitted that the ROI payments should first be allowed to be adjusted against the outstanding principal which is due to be repaid by the developer.
- 3 A detailed computation has been submitted by Mr Gaurav Agrawal, *amicus curiae*, in the cases of the flat buyers in the thirteen contempt petitions. This exercise was carried out to obviate any further dispute. As regards Contempt Petition (Civil) No 979 of 2021 (which is item No 4.12 on the cause-list), the issue between the home buyer and the developer needs to be sorted out, for which some time is sought by the Counsel. Hence, Contempt Petition (Civil) No 979 of 2021 is de-tagged and shall be listed on 7 February 2022.
- 4 The computation which has been placed on the record by the *amicus curiae* is extracted below:

“ITEM NO.4 CONTEMPT PETITION NO.923/2021**JATIN VIRDI & ORS.:**

There are 2 flats involved in the above contempt petition

Flat No.1603 [Joint allotment of Petitioners 1 and 2]

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
17.02.2010	50,000	69,239	
02.03.2010	370,150	510,990	
02.03.2010	60,000	82,990	
07.05.2010	2,560,800	3,479,601	
	Rs.3,040,950	Rs.4,142,820	Rs.7,183,770

Amount of ROI already paid by Supertech=Rs.836,246/-

Total amount payable is Rs.7183,770/- (-) Rs.836,246 = **Rs.63,47,524/-**

Amit Khanna:

The 2nd flat is Flat No.1403

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
10.03.2010	125,000	172,233	
14.04.2010	245,150	334,962	
14.04.2010	65,000	88,813	
14.04.2010	45,000	61,486	
29.04.2010	2,560,800	3,486,336	
	Rs.3,040,950	Rs.4,143,830	Rs.7,184,780

Amount of ROI already paid by Supertech =Rs.836,253/-

Total amount payable is Rs.71,84,780/- (-) Rs.836,253 = **Rs.63,48,527/-**

ITEM NO.4.1**CONTEMPT PETITION (C) NO.924/2021:**
NARENDRA THAKUR & PREM LATA THAKUR**Flat No.1203**

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
01.04.2010	50,000	68,532	
26.04.2010	303,700	413,764	
16.07.2010	1,414,800	1,889,863	
06.06.2011	37,358	45,910	
29.05.2013	741,361	734,861	
29.05.2013	170,000	168,510	
	Rs.2,717,219	Rs.3,321,440	Rs.6,038,659

Amount of ROI already paid by Supertech =Rs.747219/-

Total amount payable is Rs.6038,659/- (-) Rs.747219 = **Rs.52,91,440/-**

ITEM NO.4.2**CONTEMPT PETITION NO.925/2021:**
HEMEMDRA VARSHNEY & ANR

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
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05.06.2010	50,000	67,463	
08.09.2010	190,700	251,348	
08.09.2010	120,350	158,625	
27.12.2010	1,925,411	2,468,113	
18.07.2011	68,714	83,496	
	Rs.2,355,175	Rs.3,029,045	Rs.5,384,220

Amount of ROI already paid by Supertech = Rs.2,610,886
Total amount payable is Rs.5,384,220/- (-) Rs.2,610,886 = **Rs.2,773,334/-**

SACHI VARSHNEY

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
04.06.2010	50,000	67,463	
31.07.2010	188,000	240,348	
27.11.2010	118,063	145,625	
27.12.2010	189,8999	2,438,113	
18.07.2011	65,517	79,496	
	Rs.2,320,579	Rs.2,971,045	52,91,624

Amount of ROI already paid by Supertech =Rs.26,39,730/-
Total amount payable is Rs.52,91,624 (-) Rs.26,39,730/- = **Rs.26,51,894/-**

ITEM NO.4.3

CONTEMPT PETITION NO.926/2021: AARTI PURI & ORS

This concerns 2 flats, i.e. Flat No.704 & 604

Calculation of Flat No.704

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
17.01.2012	500,000	577,479	
02.03.2012	2,772,553	3,161,166	
08.04.2013	12,198	12,296	
	Rs.3,284,751	Rs.3,750,941	Rs.7,035,692

Amount of ROI already paid by Supertech=Rs.1,405,530/-
Total amount payable is Rs.7,035,692/- (-) Rs.1,405,530 = **Rs.5,630,162/-**

Calculation of Flat No.604 [Divya Puri]

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
17.01.2012	500,000	577,479	
27.02.2012	1,184,343	1,311,211	
09.03.2012	2,000,000	2,420,000	
	Rs.3,684,343	Rs.4,308,690	Rs.7,993,033

Amount of ROI already paid by Supertech=Rs.1,405,299/-
Total amount payable is Rs.7,993,033/- (-) Rs.1,405,299 = **Rs.6,587,734/-**

ITEM NO.4.4**CONTEMPT PETITION NO.927/2021: MAHESH JAURA & ANR**

This concerns 2 flats i.e. Flat No.3110 and Flat No.2310

Calculation of Flat No.3110

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
08.07.2013	1,396,059	1,365,460	
13.08.2013	509,536	492,337	
	1,905,595	1,857,797	3,763,392

Amount of ROI already paid by Supertech=Rs.1,271,987/-

Total amount payable is Rs.3,763,392/- (-) Rs.1,271,987 = **Rs.2,491,405/-**

Calculation of Flat No.2310- Kavita Jaura

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
14.03.2011	500,000	625,000	
16.05.2011	1,300,000	1,670,000	
06.06.2011	224,369	281,679	
	2,024,369	2,576,679	4,601,048

Amount of ROI already paid by Supertech=Rs. 22,07,819/-

Total amount payable is Rs.4,601,048/- (-) Rs. 22,07,819= **Rs. 24,22,318**

ITEM NO.4.5

Contempt Petition No.928/2021: Sapna Ahluwalia:

Supertech has calculated the amount due as Rs.50,94,135/- which appears to be correct.

ITEM NO.4.6**CONTEMPT PETITION NO.937/2021: SARITA KHARE**

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
15.05.2010	125,000	169,521	
19.05.2010	150,000	203,227	
26.06.2010	10,000	13,424	
29.06.2010	2,175,000	2,917,479	
26.04.2010	50,000	68,121	
	2,510,000	3,371,772	5,881,772

Amount of ROI already paid by Supertech =Rs.2,526,183/-

Total amount payable is Rs.5,881,772/- (-) Rs.2,526,183 = **Rs.3,355,589/-**

ITEM NO.4.7**CONTEMPT PETITION (C) NO.978/2021:: MAQSOOD ALAM**

Supertech has calculated amount due as Rs.7,425,464/-, which appears to be correct.

ITEM NO.4.8**CONTEMPT PETITION (C) NO.972/2021:: VISHAL MAHESHASRI & Ors.**

Supertech has stated that it has transferred Rs.22,45,399/- which appears to be correct.

ITEM NO.4.9**CONTEMPT PETITION (C) NO.971/2021: RAJKISHORE & ANR_:**

Supertech stated that it has given a cheque of Rs.67,319/- as per the order of this Hon'ble Court. This however, is denied by the homebuyer.

ITEM NO.4.10**CONTEMPT PETITION NO.967/2021: GAURAV SETHI**

Date of payment	amount paid	Interest @ 12% till 31.08.2021	Total amount of principal with interest
16.05.2012	400,000	446,203	
25.08.2012	534,560	578,555	
31.08.2012	2,969,201	3,207,713	
	39,03,761	4,232,471	8,136,232

Amount of ROI already paid by Supertech =Rs.2,454,048/-

Total amount payable is Rs.8,136,232/- (-) Rs.2,454,048 = **Rs.5,682,184/-**

ITEM NO.4.11**CONTEMPT PETITION NO.968/2021: MONU KASHYAP**

Date	Principal amount received	Interest @ 12% till 31.08.2021	Total amount of principal with interest
28.05.2012	400,000	461,326	
21.07.2012	200,000	227,112	
21.07.2012	450,000	511,003	
21.07.2012	500,000	567,781	
08.08.2012	102,000	115,224	
10.12.2012	670,000	729,547	
20.12.2012	2,198	2,386	
	2,324,198	2,614,379	4,938,577

Amount of ROI already paid, therefore, balance payable =Rs.2,212,968/-

Total amount payable is Rs.4,938,577/- (-) Rs.2,212,968 = **Rs.2,725,609/-"**

- 5 The refund which is due and payable arises from the final judgment of this Court. At this stage, when the Court is exercising its contempt jurisdiction, it would be necessary to provide a solution which is consistent with the directions contained

in the main judgment to effect refund of the amounts which were paid by the home buyers, together with interest. Having regard to the nature of the direction which has been issued by this Court, the computation which has been made by the *amicus curiae* is accepted. Consequently, there is no question, at this stage, of permitting the developer to carry out an appropriation in the manner indicated in the submissions which were urged by Mr S Ganesh. The considerations which weighed with this Court when it exercised its jurisdiction under Article 142 of the Constitution to order a refund to the flat buyers is entirely distinct and the interest of justice which weighed with the Court in directing the refund with interest must be duly subserved. In the circumstances, the developer - Supertech Ltd - shall refund the amounts which are due and payable in terms of the above computation prepared by the *amicus curiae*, on or before 28 February 2022. The payments towards refund which have already been made shall be taken due note of in computing the balance which is due and payable. The modalities for the payment of the amounts will, it is agreed between counsel, be sorted out at a meeting which shall be convened among (i) a representative of Supertech Ltd; (ii) the home buyers; and (iii) Mr Gaurav Agrawal, *amicus curiae*. These modalities would be worked out having regard to the fact that in certain cases there may be home loan dues payable to the concerned financial institution. The computation which has been submitted by Mr Gaurav Agrawal, as extracted in the earlier part of this order, takes into account interest dues up to 31 August 2021, namely, the date of the judgment of this Court. Mr S Ganesh has stated that the subsequent interest for the period up to the date of the payment shall be taken into account in making the final payment. Mr S Ganesh has also stated that if RTGS details are furnished to the developer, the transfer of funds shall take place within the time schedule indicated by the Court by electronic transfer.

- 6 In Contempt Petition (Civil) No 971 of 2021 (Item 4.9 indicated in the chart of the *amicus curiae*), it has been stated that a cheque for Rs 67,319 is stated to have been given by the developer, but, this is denied by the home buyer. Mr S Ganesh, on seeking further instructions, confirmed that the cheque has been handed over to the home buyer. In the event that the cheque has not been handed over, the matter shall be sorted out and the payment shall be made to the home buyer.
- 7 During the course of the hearing, Mr Sumit Agrawal, counsel appearing on behalf of some of the home buyers, stated that the home buyers who are entitled to receive the compensatory payment in terms of the judgment of this Court, together with refund, should not be compelled to move contempt petitions. Many of them, it is urged, may not be in a position to adopt further round of proceedings.
- 8 Responding to the submission, Mr S Ganesh has assured the Court that as regards other home buyers who have not moved contempt petitions before this Court, necessary steps would be taken on the same basis within a period of one week to comply with the judgment and to ensure that the refund which was directed to be made by this Court of the principal, together with the compensatory interest, is duly effected.
- 9 All the Contempt Petitions [except Contempt Petition(C) No 979 of 2021 which is directed to be detagged and shall be listed on 7 February 2022] are accordingly disposed of.

10 Pending application, if any, stands disposed of.

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

.....J.
[Bela M Trivedi]

New Delhi;
January 21, 2022
-S-

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE BELA M. TRIVEDI**

Mr. Gaurav Agrawal, Adv. (A.C.)

For Petitioner(s)

**Mr. Abraham Mathews, Adv.
Mr. Vivek Paul Oriel, Adv.
Mr. Nishe Rajen Shonker, AOR
Mr. Alim Anvar, Adv.**

**Mr. Ajit Kr.Thakur, Adv.
Mr. Sameer Singh, Adv.
Mr. Vijay Kumar Singh, Adv.
Mr. Sahil Lochab, Adv.
Ms. Neelam Singh, Adv.**

**Mr. Pankaj Jain, Sr. Adv.
Mr. Guarav Mittal, Adv.
Ms. Divya Suri, Adv.
Mr. Sachin Bhardwaj, Adv.
Mr. Sandiv Kalia, Adv.
Mr. Satbir Singh Pillania, Adv.
Mr. V G R Achary, Adv.
Mr. Nand Ram, Adv.
Dr. Sushil Balwada, AOR**

**Mr. Abhay Pratap Singh, AOR
Mr. Aaryaan Sadanand, Adv.
Ms. Vanshika Gupta, Adv.**

**Mr. Rahul Malik, Adv.
Ms. Rupali Sharma, AOR**

Mr. Mohammed Sadique T.A., AOR

For Respondent(s)

**Mr. S. Ganesh, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishabh Parikh, Adv.
Mr. S.Sahil Reddy, Adv.**

**Mr. Ashutosh Kumar, Adv.
Mr. Pulkit Agarwal, AOR**

**Ms. Prachi Mishra, Adv.
Mr. Chaitanya Bansal, Adv.
Mr. Arjun Garg, AOR**

Mr. Sumit Agrawal, Adv.

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

- 1 All the Contempt Petitions [except Contempt Petition(C) No 979 of 2021 which is directed to be detagged and shall be listed on 7 February 2022] are accordingly disposed of.
- 2 Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)
AR-CUM-PS**

**(SAROJ KUMARI GAUR)
COURT MASTER**

(Signed order is placed on the file)