

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**Civil Appeal Nos 5915-5916 of 2019**  
**(Arising out of SLP(C) Nos 18060-18061 of 2019)**  
**(Diary No 45310 of 2018)**

**M/S TDI Infrastructure Ltd**

**.... Appellant(s)**

**Versus**

**Rajendra Singh**

**....Respondent(s)**

**ORDER**

Delay condoned.

Leave granted.

These appeals have arisen from the judgments of the National Consumer Disputes Redressal Commission<sup>1</sup> dated 26 April 2018 and 5 September 2018. The NCDRC dismissed the revision petition and the review application filed by the appellant and affirmed the order of the State Consumer Disputes Redressal Commission<sup>2</sup>. The SCDRC had dismissed the appeal filed by the appellant against the order of the District Consumer Disputes Redressal Forum, Sonapat<sup>3</sup>.

The dispute between the parties pertains to a plot (Plot No E-276) which was allotted to the respondent. The allotment was made on 3 February 2006. In pursuance of the allotment, a Buyer's Agreement was

1 "NCDRC"

2 "SCDRC"

3 "District Forum"

executed on 18 January 2007. The respondent had admittedly paid an amount of Rs 33,05,037. Since the possession was not handed over, the respondent moved the District Forum. The District Forum entertained the complaint and issued the following directions:

- a) To pay interest @12% per annum on the amount of Rs.1,00,000/- which was received by them towards PLC, from the date of its deposit till realization,
- b) To offer possession of plot no.E-276 to the complainant within one month from the date of pronouncement of this order,
- c) To pay interest on the amount deposited by the complainant with the respondents at the rate of 9% per annum w.e.f. 31.7.2009 till the decision of the case,
- d) To pay Rs.25,000/- (Rs. Twenty five thousands) for rendering deficient services, for causing unnecessary mental agony, harassment and under the head of litigation expenses.”

Before the SCDRC, an objection to the pecuniary jurisdiction of the District Forum was sought to be canvassed. The SCDRC, by its order dated 28 October 2013, found no merit in the appeal. The SCDRC held that the objection as to pecuniary jurisdiction ought to have been raised at the earliest opportunity and could not be raised for the first time in appeal. This order has been affirmed in revision.

When the special leave petitions came up before this Court on 15 February 2019, the following order was passed:

“Ms. Kanika Agnihotri, learned counsel appearing on behalf of the petitioner submits (on instructions of Mr. Ritesh Vijhni, authorised representative of the petitioner) that plot No. E-276 which was allotted to the respondent is unavailable. Learned counsel states on instructions, that this was due to the fact that the parcel of land where the plot was to be developed is in dispute and the particular plot has hence not been developed.

We direct the petitioner to file a further affidavit specifying with necessary particulars, the status of the land where plot E-276 originally allotted to the respondent is situated.

Learned counsel states, on instructions, that the petitioner is willing to offer either a full refund to the respondent with such reasonable rate of interest that may be awarded by this Court or, in the alternative, to offer another plot to the respondent in the same development in lieu of the allotment which was made.

Issue notice on the application for condonation of delay as well as on the Special Leave Petition, returnable in three weeks.

Dasti service, in addition, is permitted.

In the meantime, no coercive steps shall be taken against the petitioner on the basis of the impugned order of the National Consumer Disputes Redressal Commission.”

In pursuance of the above order, an affidavit was filed in these proceedings stating that the plot (Plot No E-276) is not available since it forms the subject matter of a pending dispute. However, Ms Kanika Agnihotri, learned counsel appearing on behalf of the appellant, stated, on instructions, that the appellant is ready and willing to allot either an available plot, shop or flat of an equivalent area to the respondent or alternatively refund the amount with reasonable interest.

Learned counsel appearing on behalf of the respondent states that since his client is at an advanced age, he has received instructions to press the claim for refund, together with interest at the rate of 21% per annum. He submitted that this is the rate of interest which the builder charges from buyers in the event of default.

The fact that the appellant has received an amount of Rs 33,05,037 is not in dispute. The amount was paid in pursuance of the allotment of the plot on 3 February 2006 and the Buyer's Agreement of 18 January 2007. There has been a breach on the part of the appellant in complying with its contractual obligations.

Hence, we order and direct that the appellant shall refund to the respondent the entire amount of Rs 33,05,037, together with interest at the rate of 12% per annum computed from the respective dates on which payments were made. We also direct that the appellant shall pay litigation

expenses to the respondent for having been required to pursue his remedies right from the District Forum protracted over a length of time. We quantify the litigation expenses payable to the respondent at Rupees Two Lakhs. The aforesaid amount shall be paid to the respondent within a period of four weeks from today.

The Appeals are accordingly disposed of.

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

.....J.  
[Indira Banerjee]

New Delhi;  
July 29, 2019

ITEM NO.51

COURT NO.10

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

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Versus

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....Respondent(s)

(WITH I.R. and IA No.24525/2019-CONDONATION OF DELAY IN FILING and IA No.24532/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.24529/2019-CONDONATION OF DELAY IN REFILING)

Date : 29-07-2019 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Ms. Kanika Agnihotri, adv.  
Ms. Supriya Juneja, AOR  
Ms. Varsha Poddar, Adv.

For Respondent(s) Mr. Ravi Panwar, AOR

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

Delay condoned.

Leave granted.

The Appeals are disposed of in terms of the signed order.

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)