

ITEM NO.10

COURT NO.13

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). 7448-7450/2016

(Arising out of impugned final judgment and order dated 01/02/2016 in RP No. 1472/2015 01/02/2016 in RP No. 1566/2015 01/02/2016 in RP No. 1570/2015 passed by the National Consumer Disputes Reddresal Commission, New Delhi)

KUMAR BUILDERS AND ORS

Petitioner(s)

VERSUS

KALYANI T. DESHPANDE AND ORS ETC ETC

Respondent(s)

(with interim relief and office report)

WITH CONMT.PET.(C) No. 744-746/2017 In SLP(C) No. 7448-7450/2016

Date : 18/04/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) MR. Chander Uday Singh,Adv.
(SLP 7448-7450/16) Ms. Shyel Trehan,Adv.
Mr. Harikrishna Pramod,Adv.
Ms. Liz Mathew,Adv.
Ms. Madhu Goel,Adv.

(C.P. 744-746/17) Ms. Neela Gokhale,Adv.
Mr. Anvesh Verma,Adv.
Ms. Kamakshi S. Mehlwal,Adv.

For Respondent(s) Mr. Makarand P. Adkar,Adv.
Mr. Vijay Kumar,Adv.
Mr. Amit Bhagat,Adv.
Ms. Aparna Jha,Adv.

Ms. Neela Gokhale,Adv.
Mr. Anvesh Verma,Adv.
Ms. Kamakshi S. Mehlwal,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard.

SLP(C)No(s) No.7448-7450 of 2016 :

The petitioners are aggrieved of the Order passed by the

National Consumer Disputes Redressal Commission upholding the order of the State Consumer Disputes Redressal Commission and the District Consumer Disputes Redressal Forum. The respondents entered into an agreement with the petitioners for purchase of flats in a housing scheme floated by the petitioners and approached the District Consumer Disputes Forum with a grievance of deficiencies in service. District Forum directed, vide Order dated 16th July, 2014 that completion certificate be obtained by the petitioners which order has been upheld by the State Commission and National Commission.

When these petitions earlier came up for hearing on 5th March, 2016, this Court directed the petitioners to obtain occupation certificate from the Pune Municipal Corporation after removing all the objections and inter alia directed the Corporation to indicate the objections to the petitioners. Apart from this direction, other directions were also issued vide para nos. 2 to 7 of the Order.

Mr. C.U.Singh, learned senior counsel appearing for the petitioners, submitted that directions enumerated in para nos.2 to 7 have been complied with. We do not express any opinion about the said compliance, as it is stated by learned counsel for the respondents that some part of the directions remains to be completed. If such a dispute is raised before an appropriate forum, the same may be gone into by it in accordance with law. The petitioners are bound to comply with the directions, if they have not complied with the same.

As regards direction for obtaining occupation certificate, it is stated that the petitioners have taken steps in the matter.

Notice was also issued to Pune Municipal Corporation and stand of the Pune Municipal Corporation is that the occupation certificate cannot be granted to the petitioners on account of the following reasons:

"(1) Wing A to partly and wing C is fully affected by the blue line, demarcated by the irrigation dept. of M.S. along the bed of Ram River.

(2) unauthorised use of flats without obtaining occupancy certificate is going on.

(3) In wing A & C, as per sanctioned plans dated 29/3/2007, parking is shown on first floor. This parking is closed and not in use for parking purpose. This encroachment must be removed and parking space should be used only for vehicular parking. There is no access to this parking.

(4) Both Building are illegality and unauthorisedly occupied. Where the property tax of these flats is paid to PMC?

(5) The original sanctioned plans are lapsed in four years. Revalidation is not obtained.

(6) Blue line is demarcated as per the orders of NGT given in application NO.39/2015, by the irrigation department. Both building are affected by this blue line. No directives are received by the NGT in this regards.

(7) NOC's are not obtained form various department's of PMC such as fire drainage, water supply etc.

(8) Condition mentioned on the sanctioned layout dated 16/10/2006 are not complied.

(9) Nala Garden of width 9.00 m. is to be shown on

plan as per sanctioned D.P.

(10) Amenity space is not yet handed over to PMC."

During the hearing, Mr. Makarand D. Adkar, learned counsel for the respondent-Pune Municipal Corporation, stated that if the objections are removed, as indicated above, subject to the petitioners paying an appropriate penalty, the deficiencies can be rectified and occupation certificate can be issued. It has also been pointed out that there is some issue pending before National Green Tribunal.

In view of above, we do not find any ground to interfere with the impugned order except to extend the time for taking steps for the petitioners by one month from today.

It is also stated by learned counsel for the petitioners that as per the requirements in paras 9 to 12 in the affidavit filed by Pune Municipal Corporation the plan has already been submitted.

We make it clear that it will be open to the petitioners to move the civil court where any injunction has been granted. The Civil Court may take a decision in accordance with law.

For construction of club house and swimming pool, the petitioners will have further four months after sanction of the plan.

The special leave petitions are disposed of in above terms.

Contempt Petition (C) No(s).744-746 of 2017:

The contempt petitions are allowed to be withdrawn with

liberty to take such other remedy as may be available to the petitioner in accordance with law. It is made clear that if order of this Court has not been been complied with, this aspect can also be looked into by the forum which the petitioner may invoke.

(MAHABIR SINGH)
COURT MASTER

(SAROJ KUMARI GAUR)
COURT MASTER