

ITEM NO.57

COURT NO.1

SECTION XI

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.14314/2014

(Arising out of impugned final judgment and order dated 11-04-2014 in WP No. 65085/2012 passed by the High Court of Judicature at Allahabad)

DHIRENDER SHARMA & ORS.

Petitioner(s)

VERSUS

EMERALD COURT OWNERS RESIDENT WELFARE
ASSOCIATION & ORS.

Respondent(s)

(With appln.(s) for appropriate orders/directions, clarification/directions, intervention, permission to appear and argue in person and impleading party)

WITH S.L.P.(C) No.11959/2014 (XI)

S.L.P.(C) No.12470/2014 (XI)

S.L.P.(C) No.14262/2014 (XI)

S.L.P.(C) No.21035/2014 (XI)

(With appln.(s) for appropriate orders/directions and impleading party)

S.L.P.(C) No.31117/2014 (XI)

S.L.P.(C) No.12947/2015 (XI)

S.L.P.(C) No.12948/2015 (XI)

Date : 22-09-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

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

For Petitioner(s) Mr. Salman Khurshid, Sr. Adv.
Mr. R. Chandrachud, AOR
Mr. Keshav Mohan, Adv.
Mr. Rajnish Singh, Adv.
Mr. Nitin Thukral, Adv.
Mr. Piyush Choudhary, Adv.

Mr. Ashish Rana, AOR

Mr. Shakil Ahmed Syed, AOR
Mohd. Parvez Dabas, Adv.
Mr. Uzmi Jameel Husain, Adv.
Mr. Pulkit Chandra, Adv.

Mr. T. V. S. Raghavendra Sreyas, AOR

Mr. Abrahand C. Mathews, Adv.
Ms. Mahima Gupta, AOR

Mr. Ravindra Kumar, AOR

Mr. Somiran Sharma, AOR

Mr. M. Shoeb Alam, AOR
Ms. Fauzia Shakil, Adv.
Mr. Ujjaal Singh, Adv.
Mr. Mojahid Karim Khan, Adv.

For Respondent(s)

Mr. P.S. Narasimha, ASG
Mr. M. Ram Babu, Adv.
Mr. S.A. Haseeb, Adv.
Mr. B.K. Prasad, Adv.

Mr. Keshav Mohan, Adv.
Mr. Gaurav Kejriwal, AOR
Mr. Piyush Choudhary, Adv.

Mr. Tanmay Agarwal, Adv.
Mr. Ashutosh Kumar Sharma, Adv.
Mr. Ravi Prakash Mehrotra, AOR
Mr. Vinay Garg, Adv.

Mr. Jayant Bhushan, Sr. Adv.
Mr. Milind Kumar, AOR

Mr. R. Chandrachud, AOR

Mr. Ravindra Kumar, AOR

Mr. Akhilesh Kr. Pandey, Adv.
Mr. Prakash Kr. Singh, Adv.
Mr. Arvind Kr. Singh, Adv.
Mr. Rajeev Singh, AOR

Mr. Umang Shankar, AOR

Mr. Sarwar Raza, Adv.
Jh. Jafri, Adv.
Mohd. Waseem Akram, Adv.

Ms. Pinky Behera, AOR

Mr. Vinay Garg, AOR

Mr. Tarun Gupta, AOR

Mr. Vishwa Pal Singh, AOR

Ms. Bina Gupta, AOR

Mr. Suchit Mohanty, Adv.

Mr. Anupam Lal Das, Adv.

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

Having heard learned counsel for the parties, we think it appropriate to appoint Mr. Gaurav Agarwal, learned counsel as Amicus Curiae to see that the home buyers who are interested in getting refund get the principal amount and interest in terms of the order of this Court.

The persons, who have booked the flats which are directed to be demolished by the High Court shall intimate Mr. Gaurav Agarwal, who shall create a portal link to communicate with the respondent-developer so that he can apprise this Court on the next date of hearing. As advised at present, the principal sum along with 14% interest shall be computed by the respondent-developer and be intimated to Mr. Agarwal through the portal. Mr. Agarwal shall apprise about the portal link to the concerned parties. This exercise shall be carried out within two weeks hence. After the said details are made available to us, we may direct the amount to be disbursed from the amount that has been deposited before this Court.

Be it noted, Mr. T.V.S. Raghvendra Sreyas, learned counsel appearing for some of the petitioners has submitted that they are interested in taking possession of the flats as they had booked the same before the order passed by the High

Court. The said aspect relates to merits of the case. As we understand, the clients of Mr. Sreyas are not interested in refund and intend to run the risk to fight a litigation with the developer, if ultimately this Court does not interfere with the order passed by the High Court. We may repeat at the cost of repetition that as the flat owners would like to have the flats and in alternative would fight the litigation, we would not entertain further prayer for refund as far as they are concerned and they will be guided by the order passed by the High Court if in the ultimate eventuality the order withstands scrutiny.

In the meantime, if any amount has been paid to the allottees, the balance amount including interest, as stipulated herein-above, shall also be paid to them after the chart is filed by Mr. Gaurav Agarwal. If any amount has been paid to the flat owners, the same shall be adjusted from the computation of principal amount along with 14% interest .

Let the matter be listed on 23rd October, 2017.

The amount lying in the non-bearing interest account, be kept in a short term fixed deposit in the UCO Bank, Supreme Court Compound, New Delhi, so that interest can be accrued on the same.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar