

ITEM NO.57

COURT NO.2

SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Writ Petition(s)(Civil) No(s).1216/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(IA No. 57693/2022 - CLARIFICATION/DIRECTION  
IA No. 157932/2021 - EXEMPTION FROM FILING AFFIDAVIT  
IA No. 157928/2021 - EXEMPTION FROM FILING O.T.  
IA No. 22777/2022 - EXEMPTION FROM FILING O.T.  
IA No. 15116/2022 - INTERVENTION APPLICATION  
IA No. 157927/2021 - INTERVENTION APPLICATION  
IA No. 150788/2021 - INTERVENTION APPLICATION  
IA No. 15147/2022 - INTERVENTION APPLICATION  
IA No. 15838/2022 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

WITH

W.P.(C) No. 1226/2020 (X)  
(FOR ADMISSION)

W.P.(C) No. 1403/2020 (X)  
(FOR ADMISSION)

W.P.(C) No. 175/2021 (X)  
(FOR ADMISSION)

Date : 30-09-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MS. JUSTICE HIMA KOHLI

Mr. Devashish Bharuka, Adv. (A.C.)

For Petitioner(s) Mr. Ashwani Kumar Dubey, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG  
Mr. Rajat Nair, Adv.  
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Mr. Durga Dutt, Adv.  
Mr. Mohd. Akhil, Adv.  
Mr. Amrish Kumar, AOR  
Ms. Indira Bhakar, Adv.

Mr. Mukesh Kumar Verma, Adv.  
Mr. Neeraj Kr.Sharma, Adv  
Mr. G.S. Makkar, AOR  
Mr. A.K. Sharma, AOR

Mr. Pinaki Misra, Sr. Adv.  
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Mr. Vineet Sinha, Adv.

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Mr. Sumeer Sodhi, AOR  
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Mr. Arpit Parkash, Adv.  
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Mr. Sandeep Kumar Jha, AOR

Mr. Arunabh Chowdhury, Sr. Adv/AAG  
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Ms. Pallavi Langar, AOR  
Mr. Kumar Anurag Singh, Adv.  
Mr. Abhishek Roy, Adv.  
Mr. Aditya Kumar, Adv.  
Ms. Barnali Chowdhury, Adv.

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Mr. Daniel Lyngdoh, Adv.  
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Ms. Chubalemla Chang, Adv.  
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Mr. Amol Chitale, Adv.  
Mr. Ankur S. Kulkarni, AOR

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Mr. Abhinav Mishra, Adv.  
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Ms. Vani Vandana Chhetri, Adv.  
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Mr. Neeraj, AAG  
Mr. Piyush Beriwal, Adv.  
Mr. Ankit Raj, Adv.  
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Mr. Rudra Paliwal, Adv.  
Ms. Monika Gosain, AOR  
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Ms. Jaspreet Gogia, AOR

Mr. Nupur Kumar, AOR  
Mr. Divyansh Tiwari, Adv.  
Ms. Diksha Dadu, Adv.

Mr. V. Krishnamurthy, Sr. Adv./AAG,  
Dr. Joseph Aristotle S., AOR  
Ms. Nupur Sharma, Adv.  
Mr. Shobhit Dwivedi, Adv.  
Mr. Sanjeev Kumar Mahara, Adv.  
MS. Richa Vishwakarma, Adv.

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Mr. Ajay Pal, AOR  
Mr. Mayank Dhaiya, Adv.  
Ms. Priyanka C, Adv.

Ms. Astha Sharma, AOR  
Mr. Ravinder Singh, Adv.  
Ms. Mantika Haryani, Adv.  
Ms. Deeksha Agrawal, Adv.

**Mr. Sanjeev Kaushik, Adv.**  
**Mr. Shreyas Awasthi, Adv.**

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

1 Despite the previous order dated 12 August 2022 requiring the States/Union Territories to file their responses with the Union Ministry of Housing and Urban Affairs by 2 September 2022, the following States have not submitted their responses:

- (i) Andhra Pradesh;
- (ii) Chhattisgarh;
- (iii) Gujarat;
- (iv) Jharkhand;
- (v) Madhya Pradesh;
- (vi) Maharashtra;
- (vii) Manipur;
- (viii) Mizoram;
- (ix) Odisha;
- (x) Uttar Pradesh; and
- (xi) West Bengal.

2 On the other hand, thirteen States and two Union Territories have filed their responses.

3 The States which have not filed their responses shall do so positively within a period of four weeks from today, failing which the Principal Secretaries of the State Government in the Ministry of Urban Development/Affairs shall personally remain present before this Court on the next date of hearing to explain as to why they should not be proceeded with under the coercive arm of law.

4 A copy of the present order shall be communicated by the Secretary in the Ministry of Housing and Urban Affairs of the Government of India to their counter parts in the above eleven States which are yet to submit their responses.

5 Ms Deepanwita Priyanka, counsel appearing on behalf of the State of Gujarat, states that the response of the State of Gujarat has already been filed. If that be so, an additional copy of the response shall be furnished, within a period of one week, to the *amicus curiae*.

6 Ms Aishwarya Bhati, Additional Solicitor General, and Mr Devashish Bharuka, *amicus curiae*, have suggested the following road map:

(i) Based upon the responses, the Central Government along with the *amicus curiae* would prepare a model agreement for sale containing -

Part A: 'Core' clauses in consonance with the mandatory provisions of the Real Estate (Regulation and Development) Act 2016<sup>1</sup> for the protection of the home buyers. These clauses cannot be altered by any State/UT and must necessarily be a part of every agreement for sale.

(ii) The above model agreement for sale with Part 'A' would be submitted for

1 "2016 Act"

consideration and approval of this Court; and

(iii) The States/Uts shall then incorporate in the agreement for sale-

Part B: Additional clauses based on individual needs and exigencies of each State/UT as permissible within the scheme of the 2016 Act. However, these clauses must not be contrary to or dilute in any manner the clauses in Part 'A'.

7 Mr Pinaki Misra, senior counsel appearing on behalf of Haryana CREDAI and Mr Amol Chitale, counsel appearing on behalf of Maharashtra CREDAI, would be at liberty to submit a brief note to the *amicus curiae* so that the suggestions of these bodies can be duly taken into account.

8 The proceedings shall now be listed on 28 November 2022.

**(SANJAY KUMAR-I)**  
**DEPUTY REGISTRAR**

**(SAROJ KUMARI GAUR)**  
**ASSISTANT REGISTRAR**