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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **EX.P. 62/2021 & EX.APPL.(OS) 272/2023**

ANIL KUMAR LUTHRA & ANR.

.....Decree Holders

Through: Mr. Imon Bhattacharya and Mr.
Shivanshu Tripathi, Advs.

versus

PARTIK ARORA & ORS.

.....Judgement Debtors

Through: Mr. Harsh Yadav, Adv. for JD-1, 2
and 3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **06.11.2025**

EX.APPL.(OS) 145/2024 (filed on behalf of judgment Debtor No.2 under Section 47 of CPC)

1. Heard learned counsel appearing for the parties on the instant application.
2. There seem to be various questions which have been raised in the instant application. The first and foremost is regarding the maintainability of the civil suit itself, in view of the provisions of the Real Estate (Regulation And Development) Act, 2016 [**'the Act'**].
3. Learned counsel appearing for the applicant/objector submits that the civil suit itself was barred under the provisions of the Act, as the nature of relief which was sought in the civil suit was amenable to be granted by the authorities which have been constituted under the Act. He has taken the Court through various provisions of the Act and submits that the instant



decree is unenforceable in law.

4. The aforesaid contentions are strongly opposed by learned counsel appearing for the decree holder, and he draws the attention of this Court to the decision of the Supreme Court in the case of ***Barkat Ali and Anr. v. Badrinarain***¹, ***Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman and Ors.***² and ***Pradeep Mehra v. Harijivan J. Jethwa and Ors.***³ and of this Court in the case of ***S. B. Poddar v. Rehabilitations Plantation Ltd. and Ors.***⁴.

5. He contends that in the instant case, the plaintiffs essentially prayed for various reliefs, and the nature of the reliefs was not amenable to be granted under the Act. He opposes the application and even contests the maintainability of such an application, at this stage, when the judgment debtors were already subjected to filing of the affidavit of assets.

6. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

7. The original defendant Nos.7 to 9 were the owners of the subject property. It appears that defendant Nos.1 to 5 claimed to have derived certain rights from the original owner and then in turn, entered into an agreement with the plaintiff for the development of the said property. The dispute thus raised by the plaintiff was for specific performance of the agreement to sell or, in the alternative, for recovery of the money paid to the concerned defendants 1 to 5; however, the said defendants were neither the owner nor the promoter of the property in question.

¹ (2008) 5 SCC 615

² (1970) 1 SCC 670

³ 2023 SCC OnLine SC 1395

⁴ 2025 SCC OnLine Del 2339



8. The relief which was granted in the civil suit could not have been granted by the authority constituted under the Act. Accordingly, the objection under Section 47 raised by judgment debtor No.2 *sans* merit and is, therefore, rejected.

9. Application stands disposed of.

EX.P. 62/2021 & EX.APPL.(OS) 272/2023

1. None has appeared for judgment debtor Nos.4 and 5.
2. Let bailable warrants of Rs.10,000/- each, be issued against the said judgment debtors. Let the warrants be served through the concerned Police Station.
3. List on 02.03.2026.

PURUSHAINdra KUMAR KAURAV, J

NOVEMBER 6, 2025/P/AMG