

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2961 OF 2000

OSWAL AGRO MILLS LTD.

....

...

APPELLANT

VERSUS

MINISTER OF STATE FOR COOPERATION & ORS.
ONDENTS

....RESP

O R D E R

This appeal with grant of leave has been filed by a Company named M/s

Oswal Agro Mills Ltd. which has purchased flats in the housing complex named

Urmi Co-operative Housing Society Ltd. in Worli Sea Face, Mumbai. After

purchase of the flats and becoming member of the housing society, a dispute arose

between the society and the appellant regarding contribution towards repairs and

maintenance fund and sinking fund due against it.

The authorities under the Maharashtra Cooperative Societies Act, 1960

decided the dispute against the appellant and upheld the demand of contribution

towards the two aforesaid funds at the agreed rates on the basis of the total value of

flats shown in the sale deed as Rs.2,34,50,000/- (Rs.two crore, thrity four lakhs and fifty thousand). The dispute on rate and quantum of contribution was decided by the authorities under the Maharashtra Co-operative Societies Act against the

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appellant. The Writ Petition filed in the High Court has been dismissed summarily. Learned counsel appearing for the appellant-Company has taken us

through the relevant bye-laws of the Society and the Resolution that was passed by

the Society in the matter of contribution towards repairs and maintenance fund and

sinking fund. Learned counsel argues that in calculating the contributions on the

value of the flats, the proportionate value of the land ought to have been excluded.

He has tried to demonstrate from a chart annexed to the petition that adding up

value of the other flats occupied in the housing complex, the contribution demanded

from the appellant is comparatively too high.

We have also heard learned counsel appearing for the Society who

supported the demand. Our attention has been drawn to a letter dated 1.4.1991 of

the appellant-Company, after purchase of flats, addressed to the Secretary of the

Housing Society in which the only deduction sought was value of the air

conditioners, furniture and fixtures in the flats. The value stated by the appellant for

the purpose of working out contribution towards repairs and maintenance funds and

sinking funds is in the sum of Rs.2,34,50,000/- (Rs.two crore, thrity four lakhs and

fifty thousand). It is also explained to us that in the value of the flats, proportionate

price of the land has not been added. In these circumstances, we find no ground to interfere with the action of the society and the orders of the co-operative authorities.

As an interim arrangement, under Order of this Court passed on 24.4.2000, the appellant agreed to pay a sum of Rs.10,92,709.25 on the basis of the

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book value of the flat. The aforesaid payment was inclusive of the interest which was charged at the rate of 21%. We find that interest charged by the society is too high. The rate of interest therefore deserves to be reduced to 9%.

Let the society now recalculate the total arrears towards the aforesaid two contributions from the appellant and present the demand for withdrawal of the amount before the Registrar of this Court. The total amount in deposit with this Court on withdrawal by the society shall be duly adjusted towards the re-calculated arrears against the appellant.

The appeal is disposed of accordingly.

We make no order as to costs.

.....J.

M.DHARMADHIKARI)

(D.

.....J.

N CHATTERJEE)

(TARU

NEW DELHI ;
MAY 5, 2005.

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ITEM NO.101

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2961 OF 2000

OSWAL AGRO MILLS LTD.

Appellant (s)

VERSUS

MINISTER OF STATE FOR COOPERATION & ORS.

Respondent(s)

(With appln.(s) for early hearing and exemption from filing O.T. And directions and c/delay
in depositing the amount and office report)

Date: 05/05/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr.Dhruv Mehta, Adv.

Mr.Mohit Chaudhary, Adv.

Mr.Harshvardhan Jha, Adv.

Mr. S.K. Mehta,Adv.

For Respondent(s)

Mr.Dushyant A.Dave, Sr.Adv.

Mr.Pratap Venugopal, Adv.

Mr.P.S.Sudheer, Adv.

Mr. K.J. John,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is disposed of in terms of the signed order.

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No order as to costs.

(Satish K. Yadav)

(Phoolan Wati Arora)

Court Master

Court Master

(Signed order is placed on the file)