

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 273 OF 2022

MANOJ SINGH & ORS.

Petitioner(s)

VERSUS

CHINTEL INDIA PVT. LTD. & ORS.

Respondent(s)

O R D E R

1. Heard Mr. Prashant Bhushan, learned counsel appearing for the petitioners. The respondent No. 1 - M/s. Chintel India Pvt. Ltd. is represented by Mr. A.N.S. Nadkarni, learned senior counsel. The authorities of the Haryana Government (respondent Nos. 2 to 8) are represented by Mr. Alok Sangwan, learned senior AAG, Haryana. The respondent No. 9 despite service is unrepresented.

2. The matter pertains to the multi-towers residential project i.e., Chintel Paradiso Society in Gurugram where nine towers were erected by the respondent No. 1. The Phase I had five towers - D, E, F, G and H and Phase II had four towers - A, B, C and J, respectively. The project area spreads across 12.306 acres of land in Sector-109, Gurugram. The construction work was sub-contracted by the builder to the respondent No. 9. The builder offered possession for Phase I in 2016 and for phase II, the possession was offered in 2018. Thereafter the flat purchasers moved into their respective flats from time to time, as per their convenience.

3. After the buyers moved in, cracks were noticed in some of the

constructed towers whereafter audit of those were ordered. On 10.02.2022, a portion of Flat No. 603 in Tower D of Phase I of the Project collapsed. It led to death of two occupants and resulted in filing of the FIR No. 27 dated 11.02.2022 at the Bajghera Police Station.

4. Following the above incident, the present petition under Article 32 of the Constitution has been filed with the following prayers:

"a. Issue a writ of mandamus or any other writ, direction or order to Respondent No.5 to itself conduct the structural audit of the Society in a time bound manner;

b. Issue a writ of mandamus or any other writ, direction or order to the Respondents No.4 & 7 to complete the investigation into the incident dated 10.02.2022 on an expedited basis;

c. Issue a writ of mandamus or any other writ, direction or order directing the Respondents No. 2 and 3 to ensure that Respondent No. 1 carries out the necessary repairs and pays the Petitioners for the temporary alternate accommodation that the Petitioners will have to shift to while the said repairs are being carried out or in the alternative buy back the apartments at replacement cost from the Petitioners and also compensate the Petitioners for the disruption and for the other incidental costs incurred by the Petitioners;

d. Issue a writ of mandamus or any other writ, direction or order directing the Respondents No.2 and 6 to conduct an investigation into the fraudulent manner in which the Respondent No.1 obtained the Occupation Certificate despite poor construction quality and to cancel the same with immediate effect;

e. Pass such other and further orders as this Hon'ble Court may deem fit in the facts and circumstances of the case."

5. From the submissions made by the learned counsel for the parties, it can be seen that the IIT, Delhi had conducted a structural audit of the towers in the project and in the Preliminary Report of the Committee dated 12.03.2022, the following inferences and recommendations were given by the three-member IIT Committee:

**"3. Inferences and initial recommendations**

The main inferences and the initial recommendations from the observations above are listed below.

1. From the observations listed above, it is notable that, given the age of the structures, faster than expected deterioration had occurred in the structures. It is felt that there is a possibility of the presence of issues related structural design, material quality, and construction quality in the structures. Each of these possibilities needs to be investigated through a detailed survey, testing, assessment on-and-off the site, and analysis programme.

2. In order to assess the possibility of the presence of deficiencies in structural design in the structures, it is recommended that a detailed structural design of the structures be carried out. For this purpose, a recognised structural designer of the choice of the authorities, who would be available to work under the guidance of the Committee from IIT Delhi, may be engaged. The detailed terms of reference for this structural designer are listed separately in Annex A.

3. In order to assess the possibility of deficiencies in material and construction quality in the structures, it is recommended that a detailed survey and testing programme be carried out. For this purpose, a structural survey and testing agency of the choice of the authorities, who would be available to work under the guidance of the Committee from IIT Delhi, may be engaged. The detailed terms of reference for this structural survey and testing agency are listed separately in Annex B.

Since the repair work that was in progress could also have had a role to play in the collapses, it is

requested that the detailed repair procedure being followed in the buildings be informed in writing to the committee.

#### 4. Summary

The site of the collapse and some of the other buildings in the Chintel Paradiso project were visited by the Committee. Visual inspection of the site was carried out and the site of the collapse was closely examined. Other locations were also visited and the main observations were listed. Discussions were held with the authorities and some residents. Initial recommendations to carry out a detailed survey, testing and analysis of the structures were made."

6. Insofar as the investigation undertaken by the CBI, two chargesheets have been filed against the builder and the contractor and these are being taken by the agency to its logical conclusion. The above would suggest that both on the technical side and also on the criminal side, requisite steps have been taken.

7. Insofar as the other prayers in the writ petition for carrying out repairs and for providing temporary alternate accommodations or in the alternative to buy back the apartment at replacement cost from the petitioners, we may benefit by referring to the memo dated 15.03.2023 (Annexure A/4) of the District Town Planner (Enforcement), Gurugram where the following is reflected:

"To

Chintels India Private Ltd.,  
Chintel House, A-11, Kailash Colony,  
New Delhi - 110048.

Subject: Regarding re-settlement of residents of Tower E & F on Temporary basis.

Reference: In continuation to this office memo no. GN/DTP-E/2023/2256 dated 15.02.2023.

Vide letter under reference, it has already been conveyed to you that the structure audit report of IT Delhi has declared Tower E & F unsafe for human inhabitation and accordingly you have been directed to get the premises and flats of Tower E & F vacate from the residents living in these towers with immediate effect. Following modalities have been finalized for shifting the residents of Tower E and F:-

- 1) Developer i.e. Chintel Paradiso Society, Sector-109, Gurugram to pay rent at Rs.15/- per sq. ft.
- 2) In addition to the above, one time lump sum amount of Rs.40,000 shall also be paid to the owners presently residing in these Towers for shifting.
- 3) The owners of E & F Towers are at liberty to shift to the place identified by them and above charges shall be paid by Developer with commitment of 6 months' rent as per serial no. 1 alongwith commitment in writing for payment of rent for total 11 months shall be paid or till the final settlement between flat owner of report of IIT, Delhi based upon which further directions shall also be issued by the Committee.
- 4) The process of shifting as per the above modalities shall be completed with immediate effect.
- 5) You shall execute the rent agreement for 11 months for said flats within 10 days.

Accordingly, you are hereby directed to comply with the order as stated above and take further required action at the earliest. This is for information, please.

District Town Planner  
Enforcement, Gurugram"

8. The occupants of the towers and the Committee constituted by the Haryana Government were in negotiation on the possible options for the occupants of those towers which have been declared unsafe. Following multiple meetings with participation of a large number of

occupants, various options were explored and eventually the District Town Planner in his communication dated 21.06.2023 (Annexure R/5) in the context of the issues pertaining to Towers D, E and F of the Chintal Paradiso Society indicated the options that could be exercised by the occupants. Under option I, the occupants will vacate the concerned building and to them the builder will pay Rs.6,500/- per square feet (super area) plus cost of interior as may be finalised by Committee, plus actual stamp duty plus shifting charges and also rent till full and final payment of the flat to the occupants who have chosen option I. We are told that the process of payment for 141 residents who have chosen option I are complete for 115 persons and for the remaining in this category, the process is underway and is expected to be completed in near time.

9. The option II requires the builder to re-construct the project at the same site, subject to the occupants vacating the premises. A large number of home buyers have expressed interest in option II and Mr. Prashant Bhushan, learned counsel submits that his clients who have filed this Writ Petition would be interested to exercise option II. He however submits that re-building the unsafe towers may take time and, in the meantime, the occupants who are required to vacate for the purpose of re-construction, should be provided rental reimbursement. The counsel also raises concern about the demand of additional sum of Rs.1,000/- per square feet made by the builder, for the proposed re-construction.

10. On the above, Mr. Nadkarni, learned senior counsel representing the builder submits that the home buyers have occupied the premises for about seven years and with the re-construction, they will get a brand new premises. Insofar as the rental reimbursement is concerned, Mr. Nadkarni submits that re-construction will necessarily require permission from multiple authorities and therefore the builder should not be burdened with rental payment for indefinite time frame. But the builder is prepared to pay rent to the eligible occupants from the date of commencement of the re-construction until the new towers are ready for occupation. On the additional demand of Rs.1,000/- per square feet raised by the builder, Mr. Nadkarni submits that since the option for phase II is yet to be exercised formally by the petitioners, it can always be a subject of discussion and negotiation between the builder and the concerned occupier.

11. As the petitioners counsel voices concern that re-construction may be inordinately delayed, in response, Mr. Alok Sangwan, learned Senior AAG submits that as soon as applications are received by the authorities in the State of Haryana, subject to meeting all the parameters, the permission would be accorded without any unnecessary delay.

12. On such matters of dispute between the flat buyers and the builders, normally there should be no intervention in a proceeding under Article 32 of the Constitution. However, here was an extraordinary case where a part of the construction collapsed leading to loss of lives and the main focus in the prayer in the writ petition

was for conducting investigation and structural audit of the construction. Primarily for this prayer, this Court deemed it appropriate to issue notice in the present matter. Consequently, pleadings have been exchanged and counsel for the parties have been heard at length.

13. Mr. Alok Sangwan, learned Senior AAG representing the State of Haryana would submit that the Government Authorities have played a pro-active role in addressing the issue arising out of the incident and the counsel points out that multiple projects in the area are impacted because of high chloride content in the sand and water utilised in the construction projects in the concerned area. In the context, the Government counsel refers to the revised report dated 29.01.2023 (Annexure R/25) submitted by the IIT, Delhi to the District Town Planner (Enforcement), Gurugram where the following was observed:

**"4. Recommendations and further steps**

Based on the results above, there is rapid and widespread corrosion of reinforcement almost throughout the structure. This corrosion is due to chlorides that were mixed into the concrete at the time of its production. The need to frequent repair in the structures, as has been reported by the residents also appears to have been caused by the corrosion of steel reinforcement due to the presence of these chlorides. A poor quality of concrete has also played a role in the rapid deterioration. Given the high chloride content in the concrete almost throughout the structure, a repair of these structures for safe usage is not technically and economically feasible. In the current condition, due to the rapid corrosion of reinforcement due to the presence of chlorides, the structure is not safe for habitation"

14. As the concerned towers - D, E, F, G and H in phase I have been declared unsafe, the occupants, are expected to immediately vacate the premises. As we are informed Towers - D, E and F as on date are completely vacant; in Tower G, there are only four occupants; and, in Tower H, six occupants are residing. Out of these six, according to the builder's counsel, three occupants are owners and other three are tenants.

15. In the present petition, 188 flat owners have joined together and these writ petitioners are spread across both Phase I and Phase II towers. Since, Towers - A, B, C and J in phase II are not declared unsafe, the concern of the 188 persons who have filed the writ petition, is confined to only 125 petitioners who have purchased flats in the towers in phase I. Of these, 31 persons have settled with the builder and they have been paid their dues and have surrendered possession. None of them have exercised either option I or option II.

16. For those who are willing to exercise option I even now, the builder, according to Mr. Nadkarni, is prepared to accommodate them in the same terms as was given to those who have exercised the option-I.

17. For the remaining who want the builder to re-build the project at the same site as part of option II, the concerned buildings must necessarily have to be vacated by all the occupants including the ten remaining occupants. After the concerned towers are vacated, the builder is prepared to re-construct the towers at the same site

after securing requisite permission from the authorities. As was stated earlier, from commencement of re-construction until the project gets completed, the builder must pay the affected flat buyers reasonable rent, for their alternate accommodation. The rate of rent can be decided by the Committee headed by the Divisional commissioner, Gurugram.

18. Since the major issues pertaining to unsafe structure, investigation and structural audit are already addressed and those are to be taken to their logical conclusion, besides the above order, no further order is found necessary in this matter. Therefore, we order for closure of the present proceedings. It is ordered accordingly.

19. Pending application(s), if any, shall stand closed.

.....J.  
(HRISHIKESH ROY)

.....J.  
(PRASHANT KUMAR MISHRA)

NEW DELHI;  
JANUARY 04, 2024.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGSWrit Petition(s)(Civil) No(s). 273/2022

MANOJ SINGH &amp; ORS.

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Respondent(s)

(IA No. 258065/2023 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 04-01-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. Prashant Bhushan, AOR

For Respondent(s) Mr. Atmaram Nadkarni, Sr. Adv.  
Ms. Charu Sangwan, AOR  
Mr. Nishant Rao, Adv.  
Ms. Deepti Aarya, Adv.  
Mr. Ss Rebello, Adv.  
Mr. Arzu Paul, Adv.  
Ms. Manisha Gupta, Adv.  
Mr. Sidhant Gupta, Adv.  
Mr. Rishikesh Haridas, Adv.  
Mr. Shubham S. Dayma, Adv.Mr. Alok Sangwan, Sr. A.A.G.  
Mr. Sumit Kumar Sharma, Adv.  
Mr. Samar Vijay Singh, AOR  
Mr. Rajat Sangwan, Adv.  
Mr. Vaibhav Yadav, Adv.  
Mr. Vishnu Tallapragada, Adv.  
Mr. Vipul Dahiya, Adv.  
Mr. Apoorv Yadav, Adv.  
Ms. Sabarni Som, Adv.UPON hearing the counsel the Court made the following  
O R D E R

The Writ Petition stands closed in terms of the signed order.

Pending application(s), if any, shall stand closed.

(NITIN TALREJA)  
AR-CUM-PS(KAMLESH RAWAT)  
ASSISTANT REGISTRAR  
(Signed order is placed on the file)