

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 (Civil) No(s).19311-19313/2013

(From the judgement and order dated 09/04/2013 in RP No.4000/2011, RP No.1424/2012,RP No.1564/2012 of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

ARAB JAYWANTH RAJ & ORS.

Petitioner(s)

VERSUS

MAHENDER REDDY & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 04/06/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

HON'BLE MR. JUSTICE MADAN B. LOKUR

(VACATION BENCH)

For Petitioner(s) Mr. Ananga Bhattacharyya,Adv.

For Respondent(s)

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

Learned counsel for the petitioners submitted that the National Commission is not correct in directing the petitioners to execute the sale deed along with the developer in favour of the complainant-respondent no. 1 and 2 as the petitioners are entitled to 50% of the sale proceeds from the developer-builder in terms of the agreement which he has executed in favour of the developer-builder. While we find substance in the plea of the counsel for the petitioners to the extent of his claim towards 50% of the sale proceeds of the 15th flat in view of the mutual agreement between the petitioners-plot owners and builder-developer (respondent no.3 herein), we find no justification to oppose the direction of the Commission to execute the sale deed as the petitioners, as per their own averment, are entitled to 50% of the sale proceeds of the 15th flat from the developer-builder. However, the counsel also informed this Court that there is a mutual dispute between the petitioners and the respondent no. 3 as according to the respondent no.3 petitioners are alleged to be owing some amount to respondent no.3 on account of some claim. This part of the dispute cannot be a subject matter of challenge in this petition as the petitioner can raise all these contentions before the National Commission where the matter is still subjudice in regard to the claim of the complainant-respondent no. 1 and 2 against the respondent no.3 and the petitioners-owners of the plot.

However, in the interest of equity, we deem it appropriate to leave it open to the petitioners to call upon respondent no. 3 to settle the matter in regard to the claim of the petitioners. In view of the aforesaid averment, we grant liberty to the petitioners to approach the National Commission and raise their contentions

regarding their claim of 50% of the sale proceeds which they are entitled to receive from the respondent no. 3 and the onus lies on the petitioners to establish it before the National Commission that in the event of execution of the sale deed in favour of the complainant-respondent no. 1 and 2, the petitioners are entitled in terms of the agreement to receive 50% of the amount paid towards the sale proceeds of the 15th flat from the respondent no. 3.

The special leave petitions, in view of the aforesaid position and liberty granted to the petitioners, be treated as disposed of.

(NAVEEN KUMAR)
COURT MASTER

(SNEH BALA MEHRA)
COURT MASTER