

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. 6702 OF 2009

PRATIMA MULLICK & ANR.

Appellant (s)

VERSUS

AARCEE BUILDERS PVT. LTD. & ORS.

Respondent(s)

(With appln(s) for early hearing and with prayer for interim relief and office report)

Date: 18/07/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR  
HON'BLE MR. JUSTICE H.L. GOKHALE

For Appellant(s) Mr. Pranab Kumar Mullick,Adv.

For Respondent(s) Mr. Ajay Gupta,Sr.Adv.  
Mr. Sarad Kumar Singhaniania ,Adv

Mr. Ghanshyam Joshi,Adv.  
Mr. Pinaki Addy,Adv.  
Mr. Viraj Kadam,Adv.  
Mr. Suraj Chaudhary,Adv.

Mr. Partha Sil,Adv.

Ms. Priya Dutta, R-37 in-person

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

Permission to appear and argue in-person is granted.

Ms. Priya Datta, Respondent No.37 has appeared in person. She claims that she has 11% share in the properties which are sought to be developed under the agreement which is the subject matter of these proceedings. This fact is vehemently denied by both the appellants as well as the respondents. According to the learned counsel appearing on behalf of the appellants and learned counsel appearing on behalf of the respondents, Respondent No.37 can at best claim a share to the extent of 3%. In such circumstances, before the matter can proceed for final adjudication, it is necessary to get a clear picture with regard to the exact share of Respondent No.37. Both the counsel appearing on behalf of the appellants and the counsel appearing on behalf of the respondents have agreed that approximately 46% of the disputed property is already owned by Respondent No.1 - developer.

Counsel for the appellants further submitted that except for Respondent No.37, all other shareholders have agreed to the proposed settlement which has been placed on record as Annexure-A to the affidavit dated 9.7.2012 filed on 13.7.2012. It is further submitted by the learned counsel for the respondents that Respondent No.37 is objecting merely to create unnecessary hurdles in the way of development of the property which is already sufficiently delayed due to numerous objections being taken by numerous other parties.

It is submitted by the counsel appearing on both sides that it would be in the interest of justice if the matter is amicably settled. It is pointed out that a Development Agreement was in fact entered into between the parties which has got the sanction of the High Court. At that stage, the predecessor of the respondent also agreed to the execution of the Development Agreement. Learned counsel for respondent No.1 further pointed out that the settlement confers benefits over and above the legal share of the shareholders. The objections being taken by Respondent No.37 are not bona fide and are actuated by extraneous considerations. In such circumstances it is necessary for Respondent No.37 to place on record, by way of an affidavit, her clear stand not only with regard to the extent of her shareholding but also any other interest that she may have in the property. Let such an affidavit be filed within a period of four weeks from today.

List this appeal for final hearing on 11th September, 2012.

(A.S. BISHT)  
COURT MASTER

(INDU BALA KAPUR)  
COURT MASTER