

ITEM NO.11 Court 4 (Video Conferencing) SECTION XVII-A

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

Petition(s) for Special Leave to Appeal (C) No(s).6457-6458/2021

(Arising out of impugned final judgment and order dated 19-06-2020 in RP No. 467/2020 and 11-03-2021 in RA No. 28/2021 passed by the National Consumer Disputes Redressal Commission, New Delhi)

NEHA NANDKUMAR AMBERKAR

Petitioner(s)

VERSUS

DEORAO NAMDEORAO HIPPARGEKAR & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.56532/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 09-09-2021 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE VIKRAM NATH

HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Ms. Poonam Makhijani, Adv.
 Mr. Kabir Dixit, AOR
 Mr. Vipin Choudhary, Adv.

For Respondent(s)

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

1 By an order dated 24 November 2015, the State Consumer Disputes Redressal Commission¹ issued the following directions:

- “1. Consumer complaint is partly allowed with costs quantified to Rs.25,000/- payable to the complainant by the opponent builder/developers.
2. Opponent builder/developers i.e. opponent No.1 are directed to hand over vacant and peaceful possession of Flat No.1-57/A on 2nd floor, admeasuring 900 sq.ft. as per registered agreement to the complainant within a period

of 60 days from today;

OR

Opponent builder/developers i.e. opponent No.1 are directed to locate the flat of identical size in the same locality and hand over vacant and peaceful unencumbered possession to the complainant within a period of 60 days from today.

OR ALTERNATIVELY

Opponent builder/developers are directed to pay Rs.37,90,000/- to the complainant together with interest @ 9% p.a. from the date of filing of complaint i.e. 15/12/2011 within a period of 60 days failing which enhanced rate of interest @ 12% p.a. shall be paid on the amount till realization.

3. One set of the compilation be retained and rest of the sets be returned to the complainant.
4. Copies of the order be furnished to the parties free of cost forthwith."

2 The order of the SCDRC was placed in execution. The petitioner claims that the developer has entered into an agreement with her on 5 July 2014 in respect of the same flat and though she would be directly affected by the decree in the consumer complaint before the SCDRC, she was not impleaded as a party. The SCDRC, by its order dated 27 January 2020, rejected the application filed by the petitioner in the execution proceedings. The revision has been dismissed by the National Consumer Disputes Redressal Commission². However, the NCDRC has clarified that the revision petition was being dismissed on the ground of maintainability and not on merits and if the petitioner so wishes, she is at liberty to seek the remedies available in law.

3 The grievance of the petitioner emanates from the original order of the SCDRC dated 24 November 2015 in the consumer complaint in which the petitioner was not impleaded as a party. Hence, the only logical course for the petitioner would

2 "NCDRC"

be to pursue the remedy against the original order of the SCDRC and, as a matter of fact, the NCDRC has left it open to the petitioner to pursue the remedies in accordance with law.

- 4 In view of the above clarification, it is not necessary for the Court to entertain the present Special Leave Petition. The SCDRC, in the course of the execution, could not have gone behind its original decree.
- 5 Granting liberty to the petitioner in the above terms to pursue her remedies under the law, without expressing any opinion on the merits of the entitlement of the rival parties, the Special Leave Petitions are disposed of.
- 6 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER