

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

Writ Petition(s) (Civil) No(s).940/2017

BIKRAM CHATTERJI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.105741/2017-INTERVENTION/IMPLEADMENT and
IA No.124178/2017-INTERVENTION APPLICATION and IA
No.125364/2017-impleading party)

WITH

W.P. (C) No.1018/2017 (X)

(FOR ADMISSION and IA No.124191/2017-INTERVENTION APPLICATION and
IA No.124195/2017-CLARIFICATION/DIRECTION and IA
No.125372/2017-impleading party)

W.P. (C) No. 942/2017 (PIL-W)

(FOR ADMISSION and IA No.100082/2017-APPROPRIATE ORDERS/DIRECTIONS
and IA No.108831/2017-impleading party)

W.P. (C) No. 971/2017 (X)

(FOR ADMISSION and IA No.102714/2017-CLARIFICATION/DIRECTION)

W.P. (C) No. 947/2017 (X)

(FOR ADMISSION and I.R. and IA No.100453/2017-APPROPRIATE
ORDERS/DIRECTIONS)

W.P. (C) No. 1041/2017 (X)

(FOR ADMISSION and IA No.109963/2017)

ITEM NO.10 - W.P.(C)No.1144 of 2017

Diary No.37490 of 2017

Date : 22-11-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

Mr. Pawan Shree Agarwal, Adv. [A.C.]

For Petitioner(s)

Mr. M.L. Lahoty, Adv.

Mr. Paban K. Sharma, Adv.

Mr. Anchit Sripat, Adv.

Mr. Himanshu Shekhar, Adv. [AOR]

Mr. Ajit Kumar Sinha, Sr. Adv.

Mr. Ashwarya Sinha, Adv. [AOR]

Ms. Priyanka Sinha, Adv.

Mr. Srijan Sinha, Adv.

Ms. Ajit Tandon, Adv.
Ms. Ameya Vikrama Thanvi, Adv.
Ms. Alankrita Sinha, Adv.
Ms. Mohini Priya, Adv.
Mr. Girik Bhalla, Adv.

Mr. Prashant Bhushan, Adv. [AOR]
Mr. Pavan Bhushan, Adv.
Mr. Sumant Bhushan, Adv.
Mr. Mukesh Kumar, Adv.

Ms. Nitya Ramakrishnan, Adv.
Mr. Shadan Farasat, Adv. [AOR]
Mr. Sarin Naved, Adv.
Mr. Suhail Rashid Bhat, Adv.

Mr. R. Sathish, Adv.
Mr. Mohan Das, K.K., Adv.
Mrs. S. Geetha, Adv.
Mr. Rajesh Kumar, Adv.

Mr. Krishnan Venugopal, Sr. Adv.
Ms. Sayaree Basu Mallik, Adv.

For Respondent(s)

Mr. Ranjit Kumar, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Mr. Dhruv Gandhi, Adv.
Ms. Rati Tandan, Adv.
Mr. Gaurav Goel, Adv.

Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Mr. Dhruv Gandhi, Adv.
Ms. Rati Tandan, Adv.
Mr. Gaurav Goel, Adv.
Mr. Rajesh Kumar, Adv.

Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Gaurav Bhatia, Adv.
Mr. Abhishek Singh, Adv.
Mr. Utkarsh Jaiswal, Adv.

Mr. Bishwajit Dubey, Adv.
Mr. L. Vishwanathan, Adv.
Ms. Srideepa Bhattacharyya, Adv.
Mr. Aditya Marwah, Adv. for
M/s. Cyril Amarchand Mangaldas, Adv. [AOR]

Mr. Ashwarya Sinha, Adv. [AOR]

Mr. V. Giri, Sr. Adv.
Mr. Vishnu Sharma, Adv.

Ms. Anupama Sharma, Adv.
Ms. Sonali Negi, Adv.
Ms. Gautami Budhapriya, Adv.

Mr. Vishnu Sharma, Adv. [AOR]
Ms. Anupama Sharma, Adv.
Ms. Sonali Negi, Adv.
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Mr. Vivek Tankha, Sr. Adv.
Mr. Alok K. Agarwal, Adv.
Mr. Dhruv Gandhi, Adv.
Mr. Gaurav Goel, Adv.

Mr. Subramaniam Prasad, Sr. Adv.
Mr. Manmeet Singh, Adv.
Ms. Anjali Anchayil, Adv.
Mr. Anugrah Robin Frey, Adv.
Mr. Siddharth Iyer, Adv.
Ms. Geetanjali Shahi, Adv.
Mr. S.S. Ray, Adv.
Ms. Rakhi Ray, Adv. [AOR]

Mr. Sanjay Bhatt, Adv.

Mr. Vikas Mehta, Adv.

Mr. Ravindra Kumar, Adv.

Mr. Abhimanyu Bhandari, Adv.
Ms. Nattasha Garg, Adv.
Mr. Naveen Kumar, Adv.

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

Diary No.37490 of 2017 is taken on Board.

Issue notice in W.P.(C)Nos.1144/2017 and Diary No.37490 of 2017.

We have heard Mr. M.L. Lahoty, learned counsel for the petitioners.

Mr. Pawan Shree Agarwal, Advocate is appointed in this case as Amicus Curiae.

Learned counsel for the home buyers submitted, they have spent their hard earned money in investing in the purchase of flats for which schemes were floated by the builders/developers - respondent nos.3 and 4. Though there is some dispute with regard to who is

directly responsible, we do not intend to comment on the same at present stage. In a similar matter relating to another project we had appointed Mr. Shekhar Naphade, learned senior counsel to represent the cause of the home buyers before the Committee of Creditors constituted under the Insolvency and Bankruptcy Code, 2016 (for short, 'the Code'). In the present case we also nominate Mr. Shekhar Naphade with Ms. Shubhangi Tuli to take up the cause of the home buyers before the said authority. Mr. Naphade along with Ms. Tuli is granted liberty to interact with the Interim Resolution Professional (IRP) to protect the interest of the home buyers.

Learned counsel for the petitioners would submit that the home buyers are in a pathetic condition and, therefore, certain amount should be directed to be deposited by the developers/builders. At this juncture, Mr. Ranjit Kumar, learned senior counsel appearing for the developer submitted that 90% flats are complete and ready for delivery in the first phase. Mr. Vishnu Sharma, learned counsel appearing for respondent-NOIDA submitted, it would not hesitate to give the Occupancy Certificate and No Objection Certificate if 15% amount is provisionally deposited with them.

After hearing at length, we are inclined to direct as follows :

(i) Respondent-builder shall deposit 10% of the dues of respondent no.7 before it within four weeks hence.

(ii) The phase in respect of which Occupancy Certificate and No Objection Certificate, if granted, the possession of flats shall be handed over to the respective flat owners.

(iii) The flat owners will be at liberty to complete the finishing work, if they feel so advised.

(iv) The home buyers for whom the flats are not yet been constructed and are interested in refund, can submit their applications to the portal which is to be created by Mr. Pawan Shree Agarwal.

(v) Mr. Pawan Shree Agarwal shall create the portal and inform the advocate-on-record for the respondent-developer. The advocate-

on-record for the developer shall give a sum of Rs.5 lacs by way of bank draft to Shri Pawan Shree Agarwal so that he can meet the expenses. The directors, other than institutional directors, of the developer company shall remain personally present before this Court on the next date of hearing.

List the matter on Wednesday, the 17th January 2018.

(Subhash Chander)
AR-cum-PS

(H.S. Parasher)
Assistant Registrar