

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4136 OF 2023

THE CHAIRMAN AND MANAGING DIRECTOR, BENGAL
PEERLESS HOUSING DEVELOPMENT CO. LTD. & ANR.

APPELLANTS

A1 : THE CHAIRMAN AND MANAGING DIRECTOR BENGAL
PEERLESS HOUSING DEVELOPMENT CO. LTD.

A2 : THE WEST BENGAL HOUSING BOARD THROUGH THE
HOUSING COMMISSIONER

VERSUS

ARUNAVA BHATTACHARJEE & ANR.

RESPONDENTS

R1 : ARUNAVA BHATTACHARJEE

R2 : MITHU BHATTACHARJEE

O R D E R

Heard learned senior counsel/counsel for the parties.

2. The appellants are aggrieved by the impugned order dated 20.04.2023 passed by the National Consumer Disputes Redressal Commission, New Delhi (for short, the "NCDRC") in Consumer Case No.1076 of 2017 in which, a direction has been passed by the NCDRC to pay the interest @6 per cent for a period of about ten months to the respondents, which reads as under:-

"9.(ii) OPs shall also be liable to pay delay compensation in the form of simple interest @6% from 07.09.2015 (Committed date of possession) to the date of offer of possession or date of receipt of valid partial OC, whichever is later."

3. Learned senior counsel for the appellants submits that during the interregnum, as per the exercise directed by this Court, the flooring of the flat in question has been changed and offer to take possession has also been communicated but the respondents have not given any reply. At this juncture, when called upon, learned counsel for the respondents submits that they are agreeable to take possession of the flat in question.

4. Learned senior counsel for the appellants further submits that the Court may interfere in the findings recorded by the NCDRC in its impugned order that the delay which was caused in making the offer for possession was not due to force majeure circumstances is contrary to the records as also the facts. Learned senior counsel submits that the same was due to there being a stay on construction, floods, refusal of the electricity company to lay cables to the building concerned, etc. Thus, it was submitted that though the Court may not interfere with 6% interest awarded for the period as indicated in the impugned order, the Court may set aside the reasoning given for such compensation as it will not only have a cascading effect but would also be laying a wrong precedent.

5. *Per contra*, learned counsel for the respondents submitted that the respondents have been prevented from owing the flat for which they had paid the amount more than a decade ago. It was further submitted that the appellants had in fact, cancelled the allotment made to the respondents for the flat which through the impugned order stood restored. Thus, it was contended that the Court may award some compensation over and above what has been awarded in the

impugned order.

6. Having considered the matter and also being assisted with regard to the quantum of compensation which the Court may consider over and above the 6% interest in terms of the impugned order as also to put a quietus to the entire issue once and for all, we dispose of the present appeal in the following manner:-

- (i) The respondents shall take possession of the flat in question, within two weeks from today in the presence of the representatives of the appellants.
- (ii) The impugned order holding that the circumstances due to which there was delay cannot be construed as 'Force Majeure', stands set aside.
- (iii) The order to award simple interest @6% from 07.09.2015 (Committed date of possession) to the date of offer of possession or date of receipt of valid partial OC, whichever is later, is upheld. However, we clarify that the said period would be reckoned from 07.09.2015 till 05.07.2016. The appellants shall also be liable to pay a lump-sum compensation, beyond the 6% interest as indicated above, of Rs.10,00,000/- (Rupees Ten Lakhs) to the respondents, within two weeks from today.

7. At this stage, learned counsel for the respondents contends that the respondents are entitled to compensation in terms of the agreement and as per the impugned order, they are entitled to further compensation.

8. Without going into the issue in detail, we only indicate that since the respondents have not gone in appeal, they are not entitled for such consideration in terms of the stipulation in the agreement, but still we are awarding compensation for the reason that over two years have elapsed from passing of the impugned order and the flat in question has not yet been handed over to them. We again indicate that we are not apportioning any blame for the situation but only moulding the relief to make it more equitable. The entire observations made in the impugned order fastening liability for delay in offering possession of the flat in question on the appellants, stands set aside.

9. Both the parties shall file affidavit indicating compliance of this order in the Registry, within three weeks failing which, the matter would be posted by the Registry *suo motu*.

10. Whatever amount has been deposited before the NCDRC by the appellants along with interest accrued thereon, shall be released in favour of the appellants within three weeks from today on an application being filed to this effect.

11. Pending application(s), if any, shall also stand disposed of.

.....J.
[AHSANUDDIN AMANULLAH]

.....J.
[K.V. VISWANATHAN]

ITEM NO.30

COURT NO.13

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

Civil Appeal No(s).4136/2023

**THE CHAIRMAN AND MANAGING DIRECTOR BENGAL
 PEERLESS HOUSING DEVELOPMENT CO. LTD. & ANR.**

Appellant(s)

VERSUS

ARUNAVA BHATTACHARJEE & ANR.

Respondent(s)

**(IA No. 56609/2024 - APPLICATION FOR PERMISSION
 IA No. 122820/2023 - STAY APPLICATION)**

Date : 04-11-2025 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
 HON'BLE MR. JUSTICE K.V. VISWANATHAN**

For Appellant(s) Mr. C.U. Singh, Sr. Adv.
 Mr. S. Sukumaran, Adv.
 Mr. Bikram Sarkar, Adv.
 Mr. Anand Sukumar, AOR
 Mr. Bhupesh Pathak, Adv.
 Mrs. Ruche Anand, Adv.

For Respondent(s) Mr. Saurav Aggarwal, Adv.
 Mr. Shashank Singh, AOR
 Mr. Gautam Jha, AOR
 Ms. Prachi Dubey, Adv.
 Ms. Mehak Joshi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal stands disposed of in terms of the signed order.

2. Pending application(s), if any, shall also stand disposed of.

**(SAPNA BISHT)
 COURT MASTER (SH)**
 (Signed order is placed on the file)

**(ANJALI PANWAR)
 ASSISTANT REGISTRAR**