Review Application No.: DC/80/RA/15/2024

AND

Execution Application No.: DC/80/EA/4/2025

IN

Consumer Complaint No.: DC/80/CC/139/2021

In the matter of

Rohit Lal
S/o Mr Yograj Lal
R/o Flat No.44/2, Harmony Homes
Sushant Lok-III, Sector-57
Gurgaon-122011, Haryana, India … Complainant No. 1
(Non- Applicant No. 1/ Decree Holder No. 1)

Rachita Lal (Co-applicant)
W/o Sh Rohit Lal
R/O Flat No.44/2, Harmony Homes
Sushant Lok-III, Sector-57
Gurgaon-122011, Haryana, India … Complainant No. 2
(Non- Applicant No. 2/ Decree Holder No. 2)

VERSUS

Cosmos Infra Engineering (India) Pvt. Ltd.
(Formerly known as Mis. Cosmos Infra Engineering (India) Ltd
Office at: 1/6, Ground Floor, Rishi Apartments
4, Battery Lane, Rajpur Road, Civil Lines, Delhi
Central Delhi-110054, India … Opposite Party
(Applicant/ Judgment Debtor)

ORDER

25.03.2026

(Divya Jyoti Jaipuriar)

1. Both these applications originate from our order dated 22.11.2024 in DC/80/CC/139/2021 (Rohit Lal and another versus Cosmos Infra Engineering (India) Pvt. Ltd. After the said order was passed, the M/s Cosmos Infra Engineering (India) Pvt. Ltd. (OP herein) filed the review application seeking review of our order dated 22.11.2024. Subsequently, the Complainants filed the execution application seeking execution of our order dated 22.11.2024.

2. At this stage, it is important to mention here that as the execution application was filed subsequent to issuance of notice in the review application, we had not yet issued notice in the execution application, although we have taken up both these matters together. The order on the execution application is incumbent upon the outcome of the review application. Accordingly, by way of this order, we will be deciding both these applications together.

3. By way of our order dated 22.11.2024, we have allowed the complaint and directed the OP herein to, inter alia, refund a sum of Rs. 74,138,989/- to the Complainants with interest and compensation. It is important to note here that the hearing in the complaint was concluded on 10.08.2023 and final order was passed on 22.11.2024. During the said period, there have been certain developments which was never informed to this Commission.

4. Briefly stated, the Complainants booked a flat with the OP herein in "Cosmos Express 99" project. The OP issued the allotment letter dated 01.03.2016 with respect to allotment of flat bearing number D-106, first floor, tower D, in the above project having super area of 1310 sq. ft. Subsequently, the flat buyer agreement was also signed on 12.04.2016. The possession of flat was supposed to be delivered to the Complainants by 12.04.2020, but as the

possession of the flat was not delivered by that time, the Complainants filed the complaint before this Commission in the year 2021.

5. After giving opportunity to parties to complete the pleadings, we conducted the final hearing on 10.08.2023 and reserved the order and finally passed the order on 22.11.2024. It is indeed a fact that there was a delay in passing the final order. During the said period, certain developments took place, which was never informed about by either of the parties. This Commission, hence, was completely unaware of these developments before passing the final order on 22.11.2024.

6. It is now informed to this Commission that after the order was reserved by this Commission on 10.08.2023, on a previous application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) by the home buyers of the "Cosmos Express 99" project against the OP Company, Hon'ble National Company Law Tribunal (NCLT), Principal Bench, New Delhi vide its order dated 23.01.2024, had approved the implementation of the "Plan-A" for completion of the project. The said plan is binding on all parties including all home buyers which also include the Complainants herein.

7. We have also been now informed that home buyers filed the petition before Hon'ble NCLT bearing No. (IB) No. 462 (PB)/ 2022 (titled Girish Luthra and others vs Cosmos Infra Engineering (India) Pvt Ltd.), aggrieved by the conduct of the OP herein in not completing the project "Cosmos Express 99". In the said petition, notice was issued to the Corporate Debtor (CD), the OP herein on 10.06.2022. After hearing the parties, Hon'ble NCLT, Principal Bench, New Delhi, vide its order dated 23.05.2023, appointed an Advocate Commissioner to inspect the project and file its report. The Advocate Commissioner filed three different reports dated 21.07.2023, 10.10.2023 and 29.11.2023 respectively before the Hon'ble NCLT, Principal Bench, New Delhi. Thereafter, with the permission of Hon'ble NCLT, the Home Buyers and

the Corporate Debtor had a meeting in the presence of Advocate Commissioner, where two proposals given by the CD/ OP herein, viz. “Plan-A” and “Plan-B”, were discussed. After due consideration, the Plan-A was approved by majority of home buyers in the meeting held on 29.10.2024. It is not out of place to mention here that Plan-A was approved undisputedly by 78.48% of home buyers in the meeting.

8. Subsequent to approval of Plan-A, CD/ OP herein filed an affidavit dated 20.01.2024 before Hon’ble NCLT and consented to implement Plan-A. Accordingly, Hon’ble NCLT, Principal Bench, New Delhi, vide its order dated 23.01.2024 disposed of the petition bearing No. (IB) No. 462 (PB)/ 2022 titled Girish Luthra and others vs Cosmos Infra Engineering (India) Pvt Ltd. and passed, inter alia, following order:

> “14. Effectively, the Corporate Debtor has consented to implement Plan-A proposed and also accepted by the Home Buyers and the parties are ad idem on resolution of the project in the manner suggested in Plan-A and undertaken by the Corporate Debtor in the affidavit dated 20.01.2024.
>
> 15. Since the parties have come to certain terms for resolving the issue we deem it fit to record the same and dispose of the petition i.e. (IB)462(PB)/2022 stating that it will be binding on the parties for implementation. We do so keeping in mind the decision of the Hon’ble Supreme Court in the similar proceedings in the case of Amit Katyal vs. Meera Ahuja & Ors. reported in (2022) 8 SCC 320 as well as in the matter of Anand Murti vs. Soni Infratech Private Limited & Anr. Reported in 2022 SCC Online SC 519.”

9. The aforesaid order made it very clear that the Plan-A as approved by the majority of home buyers, the same would be binding on all parties. The said binding order also applies to the Complainants herein.

10. This Commission was never informed by the parties about the pendency of the above proceedings before Hon'ble NCLT. Even when the Hon'ble NCLT passed its final order making it binding on all parties, the same was never communicated to this Commission. Even in cases, where the final hearing was concluded and order was already reserved, it was expected from the parties to bring on record the subsequent development involving the project in question as soon as the final order was passed by Hon'ble NCLT. Non communication about the subsequent development including passing of the final order by Hon'ble NCLT involving the project in question by either of the parties is viewed very seriously by this Commission as this Commission was not aware about the pendency of the case before Hon'ble NCLT and there was no moratorium in place necessitating this Commission to stay the proceedings involving the project in question.

11. During arguments, Ld. Advocate for the Complainant argued that this Commission does not have any power to recall its order. This Commission can only review its order under section 40 of the Consumer Protection Act, 2019, but as the said legislation does not empower this Commission to recall its own order, the review application filed by the OP herein cannot be entertained. He therefore argued that the order dated 22.11.2024 passed by this Commission attains finality and should be executed in accordance with the provisions of the Consumer Protection Act, 2019.

12. Ld. Advocate for the Complainant also argued that the remedy under the Consumer Protection Act, 2019 is an additional remedy available to the Consumers which is over and above all other available remedy available to them. Hence, availability of an alternative remedy is no bar to a consumer to approach the Consumer Commission and obtain an order against the Opposite Party. He further argued that the order passed by this Commission is a valid order and the same must be executed in accordance with law.

13. Ld. Advocate for the Complainant also argued that the Consumer Commissions, while exercising its power to review its own order under section 40 of the Consumer Protection Act, 2019, have a very narrow jurisdiction. The review can only be entertained when there is an error apparent on the face of the record and such error must be self-evident. Under the review jurisdiction, this Commission cannot re-appreciate facts on new grounds, new documents or new circumstances. Further, as the Consumer Commissions have power to only review its order and not to recall it, this Ld. Advocate for the Complainant argued that this Commission cannot recall its order dated 22.11.2024. In this context, Ld. Advocate for the Complainant relied on the judgment of Hon'ble Supreme Court in the matter of Rajeev H Pathak vs Achyut K Karekar [(2011) 9 SCC 541], in which Hon'ble Supreme Court held that in absence of any power to recall or review its own order, the Consumer Commissions cannot exercise such jurisdiction. Although the said judgment was passed in a matter under the erstwhile Consumer Protection Act, 1986, the said principle still applies in proceedings pending under Consumer Protection Act, 2019.

14. Ld. Advocate for the Complainant has also relied on the order dated 14.10.2024 passed by Hon'ble National Commission in the application numbered as NC/IA/7428/2024 in Consumer Complaint No. NC/CC/73/2023 [Kannan Muthuswamy vs Cosmos Infra Engineering (India) Pvt Ltd]. By way of the said order, Hon'ble National Commission rejected the application filed by the Applicant (OP herein) without prejudice to the rights of the complainant therein to press this complaint for refund or for any other relief that may be available under the provisions of the Act and also without prejudice to the rights of the opposite party therein to contest their opposition on the merits of the complaint as and when the matter is taken up for final hearing. Ld. Advocate for the Complainant argued that the above order of Hon'ble National

Commission also clarified that the proceedings under the Consumer Protection Act, 2019 is an additional remedy available to the Complainant.

15. Ld. Advocate for the OP herein has argued that reliance on the order dated 14.10.2024 passed by Hon'ble National Commission is completely misplaced. He stated that by way of the application [NC/IA/7428/2024], the Applicant/ OP herein had placed on record the orders passed by Hon'ble NCLT and prayed that in view of the said developments before the NCLT, the matter before Hon'ble National Commission be adjourned. In this background, Hon'ble National Commission, while recording the fact that period to complete the project in compliance of the orders of Hon'ble NCLT was to expire shortly in the year 2025, the prayer of the Applicant/ OP herein seeking adjournment was rejected. It is also contended that Hon'ble National Commission also granted liberty to both the parties to file their respective evidence affidavits within six weeks and also inform the Hon'ble National Commission about the developments as a fallout of the orders dated 23.01.2024 passed by the Hon'ble NCLT and its compliance as indicated therein. The matter is stated to be still pending before Hon'ble National Commission and final hearing in the said matter is yet to commence.

16. We note that the parties informed the Hon'ble National Commission in a pending consumer complaint about the developments in the Hon'ble NCLT. It was never a prayer of the OP herein before Hon'ble National Commission that in view of the orders and developments before Hon'ble NCLT, the complaint pending before Hon'ble National Commission be disposed of. Rather, the Applicant/ OP herein only sought adjournment till completion of the implementation of the plan as proposed before Hon'ble NCLT.

17. However, as we recorded earlier, none of the parties informed this Commission earlier about the developments before Hon'ble NCLT. This Commission was completely unaware about the fact that there have been certain

developments before Hon'ble NCLT. In case of consumer complaint pending before Hon'ble National Commission, as the final argument is yet to commence, Hon'ble National Commission is yet to examine the outcome of the approval of the approved plan and to decide the complaint on merits. Hence, merely because of the fact that Hon'ble National Commission rejected the application filed by the Applicant/ OP herein seeking adjournment in the consumer complaint pending before Hon'ble National Commission, cannot mean that this Commission cannot entertain this review application and can only go ahead with execution of the order dated 22.11.2024. Hon'ble National Commission has yet to decide on the impact of the developments subsequent to the order passed by Hon'ble NCLT, which does not bar this Commission from passing this order on the review application filed by the OP herein.

18. Ld. Advocate for the OP herein has also argued that Hon'ble Supreme Court, while issuing notice in the matter of Cosmos Infra Engineering (India) Ltd vs Mahesh Kumar [Civil Appeal (Diary) No. 14272/2024] has acknowledged the fact that execution of order against the OP herein, which was previously passed by Hon'ble National Commission, would nullify the plan which has been agreed upon by all home buyers. In the said case, vide its order dated 29.04.2024, Hon'ble Supreme Court has passed following order

> "1. The Registry has reported a delay of 459 days in challenging the order of the National Consumer Disputes Redressal Commission dated 25 November 2022, allowing the complaint of the respondent and directing the appellant to grant a refund of Rs 61,24,048 together with interest.
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> 2. The submission which has been urged on behalf of the appellant is that besides pursuing the remedy under the Consumer Protection Act, the respondent had independently pursued proceedings under

> Section 7 of the Insolvency and Bankruptcy Code 2016 and was a petitioner together with other home buyers.
>
> 3. It has been submitted that in the proceedings before the National Company Law Tribunal, the home buyers have accepted a plan for the resolution of their disputes on 23 January 2024. Hence, it has been urged that if the impugned order is to be enforced, it would result in the nullification of the plan which has been agreed upon by all the home buyers including the respondent.
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> 4. In view of the above submission, we to issue notice including on the application for condonation of delay returnable on 12 July 2024.
>
> 5. Till 12 July 2024, the execution proceedings in pursuance of the impugned order shall be deferred by the executing court."

19. Subsequently, vide its order dated 22.07.2025, Hon'ble Supreme Court further directed to continue the interim order (passed on 29.04.2024) until further orders. As a result, the execution of the order against the OP herein, which is subject matter of the civil appeal pending before Hon'ble Supreme Court is still deferred. Ld. Advocate for the OP reiterated the argument that Hon'ble Supreme Court has also acknowledged the fact that by allowing to execute the order passed by Hon'ble National Commission, the implementation of the approved Plan-A in accordance of the orders passed by Hon'ble NCLT would be nullified.

20. At this stage, Ld. Advocate for the OP also argued that while passing its order dated 23.01.2024, Hon'ble NCLT has relied on two previous judgments of Hon'ble Supreme Court in the matters of Amit Katyal vs. Meera Ahuja [(2022) 8 SCC 320] and Anand Murti vs. Soni Infratech Private Limited [AIR 2022 SC 2113]. In both these judgments, Hon'ble Supreme Court has recognised and facilitated pragmatic, stakeholder centric solution to complete real estate

projects rather than indiscriminately pushing the corporate debtors into corporate insolvency resolution process (CIRP). He further argued that the approach adopted by Hon'ble NCLT is to safeguard the interests of the homebuyers and to ensure speedy time-bound delivery of flats in the project to the respective homebuyers.

21. Ld. Advocate for the OP also argued that Hon'ble National Company Law Appellate Tribunal (NCLAT) introduced the concept of "Reverse CIRP" in which, the promoter, rather than an external professional, is allowed to retain control, infuse funds, and finish stalled projects and to prioritise handing over flats in the projects to homebuyers over liquidating assets, reversing the traditional CIRP process in order to prevent further project delays. The concept of "Reverse CIRP" was first introduced by Hon'ble NCLAT in the matter of Flat Buyers Association Winter Hills v. Umang Realtech Pvt. Ltd. [2020 SCC Online (NCLAT) 1199], which has now been introduced in many cases including in the case involving the OP herein before Hon'ble NCLT in which the project was completed by the OP herein under the supervision of the Hon'ble NCLT.

22. Ld. Advocate for the OP further argued that the order passed by Hon'ble NCLT and implantation of the approved Plan-A in compliance of the orders passed by Hon'ble NCLT are binding on all parties including the Complainant herein. He further argued that all 247 home buyers of the project in question, including the Complainants herein were asked to participate in the meeting for approval of the plans as proposed by the CD/ OP herein. He further stated that out of the total 247 homebuyers, 158 homebuyers have cast their vote during the voting process. Out of 158 homebuyers who cast their vote, 124 homebuyers have voted in favour of Plan A, which constitutes 78.48% of the homebuyers in favour of Plan A.

23. At this stage, Ld. Advocate for the Complainants argued that the Complainants did not participate in the voting process and the order passed by Hon'ble NCLT would not be applicable to the Complainants herein. He has drawn our attention to para 17 of the order dated 23.01.2024 passed by Hon'ble NCLT in which Hon'ble NCLT has directed that if the parties still have further grievances, they are entitled to seek appropriate recourse as per law. Ld. Advocate for the CD/ OP herein argued that the directions in para 17 of the order passed by Hon'ble NCLT cannot be read in isolation. The said direction was passed while considering IA/6397/2023 which relates to 06 Home Buyers. Hon'ble NCLT, in its order dated 23.01.2023 recorded that the Respondents therein (CD/ OP herein) had undertaken to hear the parties with their records and deal with the same in accordance with law so that their grievance will be addressed on merits. In this context, the directions in para 17 was passed to grant liberty to 6 homebuyers in IA/6397/2024 to seek appropriate recourse as per law. The said liberty was not granted in general to all homebuyers including to those who did not participate in the matter pending before Hon'ble NCLT.

24. Ld. Advocate for the OP additionally argued that even when we consider the number of voters voted in favour of Plan A, this comes to more than 50% of the total home buyers (247). Hence, even when many home buyers did not participate in the voting, as the plan was approved by more than 50% of total number of home buyers in the project in question. He further argued that in view of the order passed by Hon'ble NCLT, the order dated 23.01.2024 passed by Hon'ble NCLT is binding on the project developer (OP herein) and all home buyers including the Complainant herein, equally.

25. Ld. Advocate for the OP also argued that even in cases where a small group of homebuyers have not participated in the proceedings before Hon'ble NCLT, the orders and the plan so approved would still be equally binding on such non-participating homebuyers. In this context, he has relied on the

judgment dated 24.03.2021 passed by Hon'ble Supreme Court in the matter of Jaypee Kensington Boulevard Apartments Welfare Association vs. NBCC (India) Ltd [(2022) 1 SCC 401], in which Hon'ble Supreme Court, while examining the challenge of resolution plan by a few homebuyers have held that private or individual's interest must give way to larger public interest. Applying the same principal as laid down by Hon'ble Supreme Court in Jaypee Kensington (supra) case, even though the Complainants did not participate in the proceedings before Hon'ble NCLT, they cannot be permitted to derail the implementation of the approved Plan-A in compliance of the orders passed by Hon'ble NCLT. He further reiterated that in view of the judgment of Hon'ble Supreme Court in Jaypee Kensington (supra) case, the order passed by Hon'ble NCLT is binding to all parties including the non-participating Complainants herein.

26. During argument, it has also been informed by Ld. Advocate for the OP that the project has now been completed in accordance with the approved plan. He also stated that the all six milestones as per the approved Plan-A have now been achieved and the Advocate Commissioner has also reported to the Hon'ble NCLT about achievement of all milestones. Hon'ble NCLT, while recording the same in its order dated 10.11.2025 has also recorded as under:

> "3. According to these reports, it appears that almost all the issues of all the homebuyers have been resolved. However, there are some pending issues which are troubling the Corporate Debtor."

27. The above order passed by Hon'ble NCLT clearly indicates that the homebuyers have not objected to any of the aspects related to implementation of the approved Plan-A and also about allotment of their respective flats in compliance of the approved Plan-A, which now stands fully implemented.

28. It is, however, not clear that out of 247 homebuyers of the said project, how many of them have taken possession after the completion of the project in

accordance with approved Plan-A. Clearly, the Complainants have not taken possession of the allotted flat in their name and are still pursuing their case before this Commission.

29. It is indeed a fact that the under section 100 of the Consumer Protection Act, 2019, the Complainants have an additional remedy which is not dependent upon any other available remedy to them. However, if any other authority, which is higher than the District Commissions, passes an order, the said order becomes binding for the District Commissions. In the case in hand, although it is argued by the Complainants herein that they have not participated in the proceedings before Hon'ble NCLT, and that the order so passed by the Hon'ble NCLT would not be binding on them, we are of the opinion that the order passed by the Hon'ble NCLT, covering all 247 homebuyers, is an order passed by a superior authority and is binding on all parries including on this Commission as well. For the reasons that this Commission was not made aware about the proceedings pending before Hon'ble NCLT, this Commission passed its order dated 22.11.2024, which, in our opinion, is in teeth of the orders passed by the Hon'ble NCLT. Had this Commission been made aware about the proceedings before Hon'ble NCLT, we would not have passed the order dated 22.11.2024.

30. Further, as in view of the orders passed by Hon'ble NCLT, OP herein has now completed the implementation of the approved Plan-A, if we insist on implantation of our order dated 22.11.2024, that would completely disregard the orders passed by Hon'ble NCLT. The orders passed by Hon'ble NCLT is binding on us and we cannot allow disregarding the order passed by Hon'ble NCLT by permitting implementation and execution of our order dated 22.11.2024.

31. In Alchemist Asset Reconstruction Company Limited v. M/s Hotel Gaudavan Private Limited [AIR 2017 SC 5124], Hon'ble Supreme Court held

that arbitration proceedings instituted after the imposition of moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is *non-est* in law. Hon'ble Supreme Court also held that such *non-est* orders cannot be given effect to. Although the said judgment of Hon'ble Supreme Court covers the orders which are passed after issuance of moratorium by Hon'ble NCLT, but the principle that once an order is *non-est*, it cannot be given effect to, equally applies to the orders which are in teeth of the orders passed by the Hon'ble NCLT.

32. We would also like to refer to a recent judgment of Hon'ble Supreme Court in the matter of Electrosteel Steel Limited (Now M/s ESL Steel Limited) vs. ISPAT Carrier Private Limited [2025 INSC 525], in which Hon'ble Supreme Court, while dealing with approval of a resolution plan under CRIP proceedings has held that upon approval of the resolution plan by the NCLT, the claims of the parties which are out of the purview of the resolutions plan stands extinguished. Though the Electrosteel (supra) judgment deals with approval of resolution plan in a CIRP proceedings before the NCLT, but the said principle would also apply to the case in hand. The OP Company was not under CIRP proceedings, but before the NCLT, the OP came up with a Plan-A, which was duly approved by the homebuyers and also by the NCLT. The said Plan-A was implemented under the supervision of the Hon'ble NCLT. Once the said Plan-A was approved and implemented under the supervision of the Hon'ble NCLT, any claim of any of the homebuyers, which are not part of the said approved Plan-A stands extinguished. As a result, the directions passed by us by our order dated 22.11.2024 also gets extinguished as the same is outside the purview of the approved Plan-A which was subsequently implemented by the OP.

33. Hence, in view of the orders passed by Hon'ble NCLT, we are of the opinion that our order dated 22.11.2024 is not only *non-est*, but also has become extinguished. Such *non-est* extinguished order cannot confer any title upon the

Complainants. Our order's validity can also be questioned or invalidity be set up in any proceeding or at any stage including in the review application filed by the OP. In this context, we rely on the judgment of Hon'ble Supreme Court in the matter of State of Orissa vs Brindabun Sharma [1995 Suppl. (3) SCC 249].

34. Hence, we are of the opinion that in view of the orders passed by Hon'ble NCLT and implementation of approved Plan-A, our order dated 22.11.2024 is *non-est* and extinguished. Our order dated 22.11.2024 cannot be executed as our order is in the teeth of the orders passed by Hon'ble NCLT. We record it again here that neither of the parties have informed this Commission about pendency of the case before Hon'ble NCLT. Had this Commission been informed about the pendency of case before Hon'ble NCLT, we would not have passed the order granting relief in teeth of the orders passed by Hon'ble NCLT.

35. At this stage, we would also like to refer to the judgment of Hon'ble Supreme Court in the matter of Narmada Bachao Andolan vs State of MP [AIR 2011 SC 1989] in which Hon'ble Supreme Court has explained the "Doctrine of Impossibility" in execution of an order. In this judgment, Hon'ble Supreme Court has held as under:

> "38. The Court has to consider and understand the scope of application of the doctrines of "*lex non cogit ad impossibilia*" (the law does not compel a man to do what he cannot possibly perform); "*impossibilium nulla obligatio est*" (the law does not expect a party to do the impossible); and *impotentia excusat legem* in the qualified sense that there is a necessary or invincible disability to perform the mandatory part of the law or to forbear the prohibitory. These maxims are akin to the maxim of Roman Law *Nemo Tenetur ad Impossibilia* (no one is bound to do an impossibility) which is derived from common sense and natural equity and has been adopted and applied in law from time

immemorial. Therefore, when it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like an act of God, the circumstances will be taken as a valid excuse. (Vide: Chandra Kishore Jha v. Mahavir Prasad and Ors., AIR 1999 SC 3558 : (1999 AIR SCW 3563); Hira Tikkoo v. Union Territory, Chandigarh and Ors., AIR 2004 SC 3648 : (2004 AIR SCW 3569); and Haryana Urban Development Authority and Anr. v. Dr. Babeswar Kanhar and Anr., AIR 2005 SC 1491) : (2004 AIR SCW 7437).

39. Thus, where the law creates a duty or charge, and the party is disabled to perform it, without any fault on his part, and has no control over it, the law will in general excuse him. Even in such a circumstance, the statutory provision is not denuded of its mandatory character because of the supervening impossibility caused therein."

36. The judgment of Hon'ble Supreme Court in Narmada Bachao Andolan (supra) deals with the issue of impossibility of performance of the formalities prescribed by a statute, but the same principle also applies in execution of the orders. In view of the orders passed by Hon'ble NCLT, the order dated 22.11.2024 passed by this Commission has become impossible to implement. Once the order passed by this Commission cannot be implemented and executed in view of the fact that the said order is in teeth of the orders passed by Hon'ble NCLT, we cannot compel the Opposite Party to implement the same as the Opposite Party would be disabled to perform the same.

37. Hence, while applying the principles laid down by Hon'ble Supreme Court, we are of the opinion that the order dated 22.11.2024 passed by us

cannot be executed and there would be application of "Doctrine of Impossibility" in execution of the said order.

38. Accordingly, we allow the review petition filed by the OP/ Applicant herein to hold that our order dated 22.11.2024 is *non-est* and extinguished which cannot be executed. Further, in view of the fact that we have held that our order dated 22.11.2024 is *non-est* and extinguished, and that we cannot execute the said order by applying the "Doctrine of Impossibility", we dismiss the execution application filed by the Complainant/ DH herein. However, parties shall be at liberty to take appropriate steps in accordance with approved Plan-A in compliance of the orders passed by Hon'ble NCLT.

39. With above directions, both these applications – DC/80/RA/15/2024 and DC/80/EA/4/2025 are disposed of. All pending applications are also disposed of in terms of the above order.

40. Copies of this order be supplied to the parties in accordance with the applicable rules. Thereafter, file be consigned to the record room.

Divya Jyoti Jaipuriar, President

Ashwani Kumar Mehta, Member

Harpreet Kaur Charya, Member