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Court No. - 29

Case :- WRIT - C No. - 13298 of 2020

Petitioner :- Shipra Sristhi Apartment

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Abhinav Gaur, Anoop Trivedi (Senior Adv.), Vibhu Rai

Counsel for Respondent :- C.S.C., Ravi Prakash Pandey, Rohan Gupta, Tarun Agrawal

Hon'ble Pankaj Naqvi, J.

Hon'ble Piyush Agrawal, J.

Heard Sri Anoop Trivedi, the learned Senior Counsel assisted by Sri Vibhu Rai for the petitioner, Sri Akhhileshwar Singh, learned standing counsel for the State and Sri Ravi Kant, the learned Senior Counsel assisted by Sri Rohan Gupta for the Development Authority.

The State of U.P. taking cognizance of the rise in population and demand for space specially for residential purposes enacted U.P. Apartment (Promotion of Construction, Ownership and Maintenance) Act, 2010 (for short "the Act").

The object of the Act is to give primacy to the interest of the owners of apartments and protection of their rights against arbitrary and profit oriented actions of the promoters / builders in which a role of an arbiter has been assigned to the competent authority in the Development Authority as held in **M/s Designarch Infrastructure Pvt. Ltd. vs. Vice Chairman, Ghaziabad Development Authority, 2013 (9) ADJ 594.**

We take judicial notice that of late large number of cases are coming to this Court on behalf of home-buyers who after having spent their hard-earned life savings, buy an apartment, only to face hostile and arbitrary actions from the promoters/builders/Development Authorities and instead of resolving such disputes, they become mute spectators. This is the genesis of the present petition.

The petitioner, a registered association of home-buyers, has preferred this writ petition highlighting several irregularities in violation of their agreements on the part of the respondent no. 3 being the developer-co-promoter of a residential project "*Shipra Shritsti*", owned and floated

by M/s Shipra Estate Limited & Jay Krishan Estates Developers Pvt. Ltd which despite several representations to the competent authority/respondent no. 2, have gone unattended.

Sri Ravi Kant, the learned Senior Counsel assisted by Sri Rohan Gupta for the Development Authority and Sri Akhileshwar Singh, the learned standing counsel for the State submit that it would be in the fitness of things and in the ends of justice that this petition is disposed of with the direction to the Competent Authority under the Act to take a decision on the grievance of the petitioner, after hearing the parties concerned, in accordance with law.

We appreciate the fair stand taken by all concerned. However, as indicated above, there is an element of huge public interest involved in respect of each and every home-buyer whose legitimate grievance is to be addressed within the parameters of agreement and law.

We deem appropriate to issue a general mandamus to the Competent Authorities to dispose of the grievance of the home-buyers within a stipulated period so as to obviate an individual home-buyer or a registered association, as the case may be, from approaching this Court time and again. The benefit of this order shall also be extended to the competent authority envisaged under U.P. Industrial Area Development Act, 1976 and other cognate enactments.

The writ petition is disposed of with the following directions:-

(i) A general mandamus is issued to the Competent Authorities under U.P. Apartment Act, 2010 & U.P. Industrial Area Development Act, 1976 or any other cognate enactment to decide the grievance of the home-buyers or their associations, positively within 3 months from the date the grievance is brought to their knowledge, by reasoned and speaking order under intimation to the aggrieved persons.

(ii) The Competent Authority shall ensure that before any decision is taken, a right of audience is given to the parties concerned.

(iii) The Competent Authority shall ensure that an officer not below the rank of a Gazetted Officer shall periodically visit the apartment / building at least once in 6 months at

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a prior notice to the registered association which shall be obliged to circulate it amongst its member so as to give them an opportunity to ventilate their grievance, if any. Any reported violation shall be immediately brought to the notice of the Authority concerned which shall immediately take remedial steps.

(iv) Any inaction on the part of Competent Authority shall be construed as serious dereliction of duty, warranting interference from the State Government.

The Registrar General is directed to communicate this order to the Principal Secretary (Urban Development), U.P. Government, Lucknow, with a further direction to circulate the same to all the Competent Authorities concerned for due compliance, forthwith.

Order Date :- 5.1.2021

Chandra