

ITEM NO.1 Court 12 (Video Conferencing)

SECTION XI-A

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

Miscellaneous Application No. 1808-1809/2019 in C.A. No. 4784-4785/2019, C.A. No. 4786-4789/2019 and C.A. No. 4790-4793/2019

(Arising out of impugned final judgment and order dated 08-05-2019 in C.A. No. No. 4784/2019 08-05-2019 in C.A. No. No. 4785/2019 08-05-2019 in C.A. No. No. 4786/2019 08-05-2019 in C.A. No. No. 4787/2019 08-05-2019 in C.A. No. No. 4788/2019 08-05-2019 in C.A. No. No. 4789/2019 08-05-2019 in C.A. No. No. 4790/2019 08-05-2019 in C.A. No. No. 4791/2019 08-05-2019 in C.A. No. No. 4792/2019 08-05-2019 in C.A. No. No. 4793/2019 passed by the Supreme Court Of India)

THE KERALA STATE COASTAL ZONE MANAGEMENT  
AUTHORITY MEMBER SECRETARY

Petitioner(s)

VERSUS

MARADU MUNICIPALITY & ORS.

Respondent(s)

In C.A. No. 4784/2019, In C.A. No. 4792/2019,  
In C.A. No. 4791/2019, In C.A. No. 4790/2019,  
In C.A. No. 4789/2019, In C.A. No. 4788/2019,  
In C.A. No. 4787/2019, In C.A. No. 4786/2019,  
In C.A. No. 4785/2019, In C.A. No. 4793/2019

(MR. GAURAV AGRAWAL, ADVOCATE  
CODE:1516

(Appointed as Amicus Curiae as per Hon'ble Court's Order  
dt.06.11.2020)

e-mail:agrawal439@gmail.com  
Mobile No.9811284039

IA No. 23986/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 24263/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 114391/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 24150/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 24126/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 128339/2020 - APPROPRIATE ORDERS/DIRECTIONS

**IA No. 112347/2020 - CLARIFICATION/DIRECTION**

**IA No. 23900/2020 - CLARIFICATION/DIRECTION**

**IA No. 114394/2020 - EXEMPTION FROM FILING AFFIDAVIT**

**IA No. 114388/2020 - EXEMPTION FROM FILING AFFIDAVIT**

**IA No. 114373/2020 - EXEMPTION FROM FILING AFFIDAVIT**

**IA No. 126692/2020 - INITIATING CONTEMPT PROCEEDINGS**

**IA No. 128337/2020 - INTERVENTION APPLICATION**

**IA No. 23983/2020 - INTERVENTION/IMPLEADMENT**

**IA No. 24261/2020 - INTERVENTION/IMPLEADMENT**

**IA No. 114385/2020 - INTERVENTION/IMPLEADMENT**

**IA No. 24148/2020 - INTERVENTION/IMPLEADMENT**

**IA No. 114370/2020 - INTERVENTION/IMPLEADMENT**

**IA No. 158544/2019 - MODIFICATION**

**IA No. 110187/2020 - MODIFICATION OF COURT ORDER**

**IA No. 113938/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)**

**WITH**

**CONMT.PET.(C) No. 1162-1163/2019 in MA 1808-1809/2019 in C.A. No. 4784-4785/2019, C.A. No. 4786-4789/2019 and C.A. No. 4790-4793/2019 (XI-A)**

**In M.A. 1809/2019, in M.A 1808/2019,**

**FOR**

**(FOR EXEMPTION FROM FILING AFFIDAVIT ON IA 113454/2020**

**IA No. 113454/2020 - EXEMPTION FROM FILING AFFIDAVIT)**

**MA 1056-1057/2020 in C.A. No. 4784-4785/2019 (XI-A)**

**(FOR**

**FOR CLARIFICATION/DIRECTION ON IA 48577/2020**

**FOR impleading party ON IA 48578/2020**

**FOR INTERVENTION/IMPLEADMENT ON IA 48578/2020**

FOR impleading party ON IA 48579/2020

FOR INTERVENTION/IMPLEADMENT ON IA 48579/2020

FOR CLARIFICATION/DIRECTION ON IA 48580/2020

FOR impleading party ON IA 48583/2020

FOR INTERVENTION/IMPLEADMENT ON IA 48583/2020

FOR impleading party ON IA 48584/2020

FOR INTERVENTION/IMPLEADMENT ON IA 48584/2020

IA No. 48580/2020 - CLARIFICATION/DIRECTION

IA No. 48577/2020 - CLARIFICATION/DIRECTION

IA No. 48579/2020 - INTERVENTION/IMPLEADMENT

IA No. 48578/2020 - INTERVENTION/IMPLEADMENT

IA No. 48584/2020 - INTERVENTION/IMPLEADMENT

IA No. 48583/2020 - INTERVENTION/IMPLEADMENT)

Date : 09-02-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA

HON'BLE MR. JUSTICE KRISHNA MURARI

For the Parties

Mr. Kapil Sibal, Sr. Adv.

Mr. Sachin Patil, AOR

Mr. Geo Joseph, Adv.

By Courts Motion, AOR

Mr. V. Chidambaresh, Sr. Adv.

Mr. Bijo Mathew, Adv.

Mr. Manu Krishnan G., Adv.

Mr. Seshatalpa Sai Bandaru, AOR

Mr. Rana Mukharjee, Sr. Adv.

Mr. K. Rajeev, AOR

Mr. Santhosh Mathew, Adv

Mr. A. Karthik, Aor

Ms. Smrithi Suresh, Adv

Mr. Arsh Khan, Adv

Ms. Sreepriya K, Adv

Mr. Radha Shyam Jena, AOR

Mr. Venkataramani Sr. Adv.  
Ms. Priyanka Prakash, Adv.  
Ms. Beena Prakash, Adv.  
Mr. G. Prakash, AOR

Mr. Gaurav Agrawal, AOR

Ms. Liz Mathew, AOR  
Mr. Manish Jha, Adv.  
Ms. Sonali Jain, Adv.

Ms. Pallavi Pratap, AOR

Mr. P.S. Patwalia Sr. Adv.  
Mr. Ram Niwas Buri, Adv.  
Mr. G. P. Tiwari, Adv.  
Ms. Preeti Singh, AOR  
Mr. Sunklan Porwal, Adv.

Ms. Meenakshi Arora Sr. Adv  
Mr. Sanjay Jain, Adv.  
Mr. Shishir Pinaki, AOR

Mr. Vanshdeep Dalmia, AOR

Mr. V. Krishnamurthy, Sr. Adv.  
Mr. Prashant Padmanabhan, AOR

Mr. Gopal Shankarnarayan, Sr. Adv  
Mr. Lakshmeesh S. Kamath, AOR

Ms. Prachi Bajpai, AOR  
Mr. Kailas Bajirao Autade, AOR  
Mr. Rahul Jain, AOR

Mr. Rohit Kumar Singh, AOR  
Mr. Shrey Saini, Adv.

Mr. Abdul Azeem Kalebudde, AOR

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

We have heard Mr. Gaurav Agrawal, learned Amicus  
Curiae and counsel for the parties.

The Committee while dealing with the claim of home buyers whether the proportionate cost of the land should also be included in the value stated to have been paid to the builder, in the relevant extract, has observed as follows:

"We think that this point may be clarified by the Hon'ble Supreme Court - whether we should include the value of land shown to have been paid to the builder and also acknowledged by the builder as having been received, in the amount actually paid by the claimants. In view of the opposition by most of the Flat Owners to receive back today the price of the undivided share of land that they paid 7-12 years ago, we exclude the land value from the amount payable by the builder to the Flat Owners for the time being."

We are of the considered opinion, specially in absence of any consensus amongst the home buyers themselves, with the majority opining in favour of detaining the lands, the issue cannot be decided in the present proceedings. The aggrieved are at liberty to take appropriate proceedings. The value paid by a home buyer to the builder, therefore, has to be determined minus the proportionate value of the land.

Learned Senior Counsel Mr. V. Chitambaresh, appearing on behalf of two persons Appu Suresh and Tono Thomas, submits that they are from amongst the 13 persons who have paid full price as home buyers and possession has also been given to them on 01.02.2015 and 20.12.2013, even though only an agreement for sale had been executed and the sale deed has not been registered. He submits that

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they should not be excluded from being awarded interim compensation also.

Shri Gaurav Agrawal, learned Amicus Curiae has drawn our attention to the fact that these 13 persons have been identified with proof that they had made payment of a total amount of Rs.4,73,50,400/-. Directions are solicited from this Court for payment of interim compensation to them also from the concerned builders i.e. Holy Faith Builders & Developers and Jain Housing & Constructions Ltd. for a sum of Rs.1,11,70,754/- and Rs.3,61,79,646/- respectively.

We are of the considered opinion that once it has been established that the aforesaid 13 home buyers have in fact made payments to the two builders, they are also entitled to interim compensation and cannot be deprived merely for the reason that no sale deed had been executed, the facts not being in dispute.

The value of the compensation claimed by these 13 persons, again therefore, has to be determined without taking into account the proportionate value of the land for reasons as already discussed by us hereinabove.

I.A. No. 48580 of 2020 (For Clarification/Direction), I.A. No. 48577 of 2020 (For Clarification/Direction), I.A. No. 48579 of 2020 (For Intervention/Impleadment), I.A. No. 48578 of 2020 (For Intervention/Impleadment), I.A. No. 48584 of 2020 (For Intervention/Impleadment) and I.A. No. 48583 of

2020 (For Intervention/Impleadment) are disposed of.

Mr. Rana Mukherjee, Learned Senior Counsel appearing for respondent no. 4 is permitted to file additional documents in the meantime.

Registry to facilitate Amicus Curiae Mr. Gaurav Agrawal in marking all volumes which are expected to be helpful during proceedings for all the parties.

List on 17.02.2020.

(NEETA SAPRA)  
COURT MASTER (SH)

(DIPTI KHURANA)  
COURT MASTER (NSH)