

Court No. - 21

Case :- WRIT - C No. - 41507 of 2023

Petitioner :- Aakriti Shantiniketan Apartment Owners Association

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ajay Sharma

Counsel for Respondent :- C.S.C.,Kaushalendra Nath Singh

Hon'ble Manoj Kumar Gupta,Acting Chief Justice

Hon'ble Donadi Ramesh,J.

1. The instant petition has been filed by Apartment Owners Association of a group housing project raising grievance against the promoter (respondent no.5) in relation to deviations made by him from the sanctioned building map while raising construction.

2. It is submitted that parking space has been reduced and the interest free maintenance security amount has still not been transferred to the petitioner-Association. The promoter has also not obtained current N.O.C. from the fire department. It is submitted that a meeting was held between the petitioner-Association and the promoter in presence of the competent authority for a mediated settlement, but without any result.

3. The prayer made in the instant petition is for a direction to respondent no.2 to initiate action against respondent no.5 for making changes in the project after issuance of completion certificate dated 9.5.2017 and for compensating the allottees on account of reduction of the land share due to additional apartments constructed by the promoter. Various other allied directions have also been sought against the promoter.

4. Sri Kaushalendra Nath Singh, learned counsel appearing on

behalf of respondent-Authority submits that the Chief Executive Officer has been designated as competent authority under the Uttar Pradesh Apartment (Promotion of Construction, Ownership and Maintenance) Act, 2010. He points out that under Bye-Law No. 57 of the Model Bye-Laws, the competent authority is empowered to carry out inspection of the building and thereafter, take such action in respect of shortcoming as he may deem necessary. He submits that the competent authority is therefore, competent to examine the grievances of the petitioner.

5. Learned counsel for the petitioner very fairly submits that the competent authority be permitted to examine the grievances of the petitioner and to take consequential action.

6. We are of the opinion that issuing direction to the aforesaid effect to the competent authority would subserve the ends of justice. Accordingly, the petition is disposed of with direction to respondent no.2 to make inspection of the building in terms of Bye-Law No. 57 and thereafter take such action as deemed appropriate in the facts and circumstances of the case, after due opportunity of hearing to the petitioner as well as the promoter (respondent no.5). The aforesaid exercise shall be carried out within three months from the date of communication of the instant order.

(Donadi Ramesh, J.)

(Manoj Kumar Gupta, ACJ.)

Order Date :- 2.12.2023

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