



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

WRIT PETITION NO. 8318 OF 2020 (GM-CON)



BETWEEN:

1. M/S SEQUEIRA STAR HOME BUILDERS
HAVING ITS PLACE OF BUSINESS
AT MUMBAI, MAHARASHTRA
HAVING ITS BRANCH OFFICE
AT KADRI TOLLGATE, KADRI
MANGALORE-575 001
KARNATAKA
2. MR. FELIX SYLVESTER SEQUEIRA
S/O MR. STANISLAUS SEQUEIRA
AGED ABOUT 54 YEARS
R/O COTTAGE NO.44
WARODA ROAD, BANDRA WEST
MUMBAI-400 050
3. MRS. ROMALDINE BERNADINE SEQUEIRA
R/O 44, WAORDA ROAD
BANDRA WEST
MUMBAI-400 050
MAHARASHTRA
4. MR. MCFEL FRANCIS SEQUEIRA
S/O MR. FELIX SYLVESTER SEQUEIRA
R/O COTTAGE NO.44, WARODA ROAD
BANDRA (WEST)
MUMBAI -400 050
MAHARASHTRA

...PETITIONERS

(BY SRI. VINAYAK KAMATH K, ADVOCATE)

Digitally signed
by SRI. KAMATH K
Location: High
Court of
Karnataka



AND:

1. BRAYAN J VAZ
S/O LATE SEBASTIAN VAZ
R/O KADRI
MANGALORE-575 002
KARNATAKA
2. HERALD D' SOUZA
S/O LATE LOIS D'SOUZA
AGED ABOUT 46 YEARS
R/O 064, TIARE APARTMENTS
ALVARIS ROAD, KADRI
MANGALORE-575 001
KARNATAKA
3. JOSEPH REGO
S/O LATE CHARLES REGO
AGED ABOUT 54 YEARS
R/O 102, 1ST FLOOR
STAR LEGACY-I
KADRI TOLLGATE
MANGALORE-575 001
KARNATAKA
4. QUEENIE REGO
W/O MR. JOSEPH REGO
AGED ABOUT 57 YEARS
R/O 102, 1ST FLOOR
STAR LEGACY-I
KADRI TOLLGATE
MANGALORE-575 001
KARNATAKA
5. ROQUE BONIFACE D' SOUZA
S/O LATE MOURICE D' SOUZA
AGED ABOUT 45 YEARS
R/O "MATHRUCHAYA", 1ST FLOOR
PRANTHYA VILLAGE, BANTWAL ROAD
MOOBBIDRI, MANGALORE
KARNATAKA



6. STANLEY PINTO
S/O LATE GREGORY PINTO
AGED ABOUT 63 YEARS
R/O B-2 APARTMENT-1,
STAR LEGACY-I, KADRI TOLLGATE
MANGALORE-575 001
KARNATAKA

7. MRS. MARIA PINTO
W/O MR. STANLEY PINTO
AGED ABOUT 59 YEARS
R/O B-2, APARTMENT-1
STAR LEGACY-I, KADRI TOLLGATE
MANGALORE-575 001
KARNATAKA

...RESPONDENTS

(BY SRI. B.S. SACHIN, ADVOCATE FOR R1 TO R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 11.08.2016 PASSED THE LEARNED DAKSHINA KANNADA DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, MANGALORE VIDE AN ORDER DATED 11.08.2016 IN E.P.NOS.49, 50, 51, 53, 81 OF 2013 AND THE ORDER DATED 24.07.2019 PASSED BY THE HON'BLE KARNATAKA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, BENGALURU AFFIRMING AND UPHOLDING THE ORDER PASSED BY THE LEARNED DISTRICT CONSUMER DISPUTES REDRESSAL FORUM, MANGALORE, SAME BEING ILLEGAL AND NOT SUSTAINABLE IN LAW.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
and
HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR



ORAL ORDER

(PER: HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR)

This writ petition is filed by the petitioners invoking the extraordinary jurisdiction of this Court under Article 226 and 227 of the Constitution of India, seeking to quash the order dated 11.8.2016 passed by the District Consumer Disputes Redressal Forum, Mangaluru in Execution Petition No.s 49, 50, 51, 52, 53 and 81/2013, as well as the order dated 24.7.2019 passed by the Karnataka State Consumer Disputes Redressal Commission in appeal Nos. 2264 to 2269/2016.

Facts of the Case:

2. It is stated, that the petitioners who are developers of residential apartment complex known as 'Star Legacy' have challenged the aforesaid orders contending, that the forums below failed to appreciate the constraints faced by the petitioners and erroneously imposed penal consequences for alleged non-compliance



with the directions issued in consumer complaints instituted by individual flat owners and the Association.

3. The facts leading to the case are not in dispute. The petitioners had undertaken the development of the residential project "Star Legacy" and had sold multiple flats to individual purchasers, who are now members of the respondent-Association. It is the admitted case that, the petitioners had failed to obtain the occupancy certificate, failed to execute the deed of declaration under the Karnataka Apartment Ownership Act, 1972, so also failed to address structural and electrical deficiencies and had not provided various statutory and promised amenities despite repeated assurances to the purchasers.

4. The aggrieved purchasers had approached the District Consumer Forum in the year 2012, which, after due consideration of the evidence, passed a detailed and reasoned order in the year 2013 directing the petitioners to cure the deficiencies, obtain necessary certificates, permissions and compensate the flat owners. The



petitioners did not comply with the said directions. Consequentially, the purchasers were constrained to initiate execution proceedings under Section 27 of the consumer Protection Act, 1986 which empowers the forum to impose penal consequences for willful disobedience of its orders. In the execution proceedings, the District Consumer Forum after affording due opportunity to the petitioners recorded a finding, that the petitioners had shown deliberate disregard for the directions issued and had continued to benefit commercially without discharging their legal and contractual obligations. The forum accordingly directed punitive action including imprisonment and fine.

5. The petitioners carried the matter in appeal before the Hon'ble State Commission which upon a thorough re-evaluation of facts and law, dismissed the appeals and confirmed the order of the District Forum. Thereafter, the petitioners filed a revision petition before the National Consumer Disputes Redressal Commission,



New Delhi which also found no reason to interfere. It is relevant to note that, the petitioners even approached the Hon'ble Supreme Court seeking relief and it did not interfere with the orders passed by the subordinate fora. It is only thereafter, that the petitioners have chosen to invoke the writ jurisdiction of this Court.

6. In the statement of objections filed by the respondents, they have strongly resisted the maintainability of present writ petition. They have drawn attention to the consistent and concurrent findings rendered by every consumer forum as well as the repeated and deliberate defiance of judicial orders by the petitioners. It is contended, that the petitioners despite having full knowledge of the deficiencies and obligations, have avoided compliance for over a decade.

7. The respondents assert that, the petitioners cannot be permitted to reopen the issues that have attained finality under the guise of a constitutional challenge and have submitted that the present writ



petition is nothing but a tactic to defeat the ends of justice and deny lawful relief to the flat purchasers who have been put to immense hardship. The respondents further assert that the statutory consumer forums are fully empowered to impose penalties for non-compliance and the present writ petition is misconceived and intended to scuttle the due process of law. It is further contended that, entertaining this petition would set a dangerous precedent and embolden unscrupulous developers to defy consumer forums with impunity.

8. Having heard the learned counsels on both side and having perused the records, this Court finds that, there is no merit in the present petition. The petitioners have failed to point out any jurisdictional error or violation of principles of natural justice in the orders passed by the District Consumer Forum or the State Consumer Commission.

9. The scope of interference under Article 226 of the Constitution of India in such matters is limited and is



not akin to an appellate review. The District Forum, the State Commission and the National Commission have rendered concurrent findings based on facts and documents placed on record, and the petitioner's conduct throughout the proceedings has been characterized by non-co-operation, evasiveness and delay. The explanation now sought to be offered by the petitioners that, certain statutory permissions were pending before public authorities, is not borne out by the record. Even assuming that, there were administrative hurdles, the petitioners were duty bound to inform the consumers and take proactive steps. Their inaction for several years speaks volumes about their intention to protract litigation and frustrate consumer justice. The record further reveals that the petitioners had continued to enjoy financial and commercial benefits from the project while neglecting essential obligations towards the flat purchasers. The facilities promises at the time of sale were not fulfilled.



10. The mandatory requirements under Municipal and Apartment Ownership laws were not complied with. At every stage, the petitioners have made representations before judicial and quasi-judicial forums only to delay and dilute their liability. It is also significant that the petitioners have not complied with the orders of consumer forum till this date and the flat owners continued to suffer the consequences of such non-compliance. The law does not permit any person to derive advantage from his own default. In the absence of any new material or substantial legal ground, we find that the petitioners have filed the present petition merely to buy time and avoid the consequences of their own wrongs.

11. In view of the above, we are of the considered opinion that, the writ petition deserves to be dismissed *in limine*. The conduct of the petitioners, as noted hereinabove, not only amounts to gross abuse of judicial process but also, deserves to be deprecated in the strongest possible terms. The petitioners have compelled the respondents to fight prolonged litigation, expending



considerable time, money and energy. It is only appropriate that the petitioners bear the cost of this unnecessary litigation and compensate the flat owners who have suffered due to their callous and dishonest approach.

12. Accordingly, the writ petition is ***dismissed*** with costs quantified at Rs.5,00,000/- (Rupees five lakh only). The said amount shall be paid jointly and severally by the petitioners to the Flat Owners Association of "**Star Legacy**", Mangaluru, within a period of four weeks from the date of receipt of copy of this order. The said amount shall be utilized by the Association for the maintenance of premises and for developing greenery in and around the structure.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

Sk/-List No.: 1 Sl No.: 8