

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12523 OF 2019

M/s. Enkay Homes Ltd. & Anr. .. Petitioners

Vs

Housing & Urban Development
Corporation Limited & Ors. .. Respondents

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Mr. Cyrus Ardeshir with Mr. Manoj Harit and Mr. Akhil Kupade
i/b Manoj Harit & Co. for the Petitioners.

Mr. V.N. Ajikumar for Respondent No.1.

Ms. Nisha Mehra, A.G.P. for Respondent No.2.

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**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 14th FEBRUARY, 2020.

P.C:-

1. The Petitioners were aggrieved by the fact that the Recovery Officer, Debts Recovery Tribunal-I, Bombay, vide impugned order dated 08th November, 2019 had permitted sale of property belonging to Petitioner No.1 valued, according to Petitioner No.1, at over ₹100 crores. The dues payable to

AJN

Respondent No.1 as per the Affidavit filed on 06th August, 2019 being ₹1,25,51,042/- as on 30th June, 2019.

2. Issuing notice in the Writ Petition on 12th December, 2019, we had noted the statement made by learned counsel for the Petitioners that one commercial shop having market value of above ₹1.5 crore is available for sale and after selling the same and realizing the same value, the Petitioners would not appropriate the sale price.

3. Binding the Petitioners to said statements made by their counsel, we had directed that the Petitioners would file an Application before the Recovery Officer, requiring the Recovery Officer to quantify the unpaid decretal amount. The said amount quantified would be deposited with the Recovery Officer. We had lodged a caveat. If the Petitioners dispute the quantification of the outstanding decretal amount then notwithstanding the said quantified amount being deposited with the Recovery Officer, they would be entitled to question the said adjudication.

4. The shop has been sold. The agreed sale price is ₹1.65 crore. The amount has to be realized by the Petitioners from the buyers in tranches.

5. The Petitioners have filed an Application before the

Recovery Officer seeking quantification of the decretal amount which remains to be paid to satisfy the decree.

6. Under the circumstances, we pre-pone the hearing of the Writ Petition and dispose of the Writ Petition declaring that the first eight paragraphs of the order dated 12th December, 2019 be transposed as the paragraphs of this order requiring the Petition to be disposed of in said terms.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)