

06.04.2022

Sl. 5-6

Ct.No. 03

Amalranjan

(Via Video Conference)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

(COMMERCIAL DIVISION)

RVW 37 of 2022

In

FMAT 458 of 2021

Sanjib Bhattacharya

Vs.

ATK Manor Developers LLP & Ors.

CAN 2 of 2022

With

CAN 3 of 2022

Mr. Gautam Chakraborty

Mr. Kartik Kumar Ray

...for the applicant

Mr. Suddhasatva Banerjee

Mr. Shaswat Nayak

Ms. Rituparna Chatterjee

...for the respondent no. 1

Mr. Sabyasachi Chowdhuri

Mr. Sayantan Bose

Mr. Shounak Mukhopadhyay

Ms. Anypurba Banerjee

Ms. S. Bose

...for the respondent no. 2

Mr. Pinakibrata Ghosh

Mr. Arindam Paul

...for the respondent no. 3

Mr. Rohit Banerjee

Mr. Narayan Debnath

...for the respondent no. 4

Re: CAN 2 of 2022

This is an application for review of our
judgment and order dated 12th August, 2021
passed in an appeal from an order of the learned

trial court in an application under Section 9 of the Arbitration and Conciliation Act, 1996.

We had passed the said order dated 12th August, 2021 on the basis of an arrangement between developer and executor specifying the allocation of the property or a part of it in favour of the executor representing the estate of the said deceased. The allocation was in terms of floors or flats etc. in the building blocks to be built on the subject property.

Now, it is submitted on behalf of the petitioner that there are some flaws in the sanctioned plan in respect of the said building or buildings where the allocation has been made. Hence our order should be reviewed.

Our order concerned with specific portions of the property to be allocated to the executor. Suppose, the building plan is defective or there is no building plan, the executor will still be entitled to that portion. Only the illegal building erected and allocated has to be pulled down and a new one erected.

We see no reason, why our order needs to be reviewed on the basis of this allegation. More importantly, we find nothing in this application to meet the requirements of Order 47 rule 1 of the Code of Civil Procedure. Neither any error on

the face of the record nor any fact, which inspite of exercise of due diligence could not be within the knowledge of the petitioner when the order was passed, is shown.

For all those reasons, the application for review is dismissed.

We make it clear that our finding or observations are confined to the grounds made out in the review application only and will not fetter any other right possessed by the parties.

(Aniruddha Roy,J.)

(I. P. Mukerji,J.)