IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3150 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Vivek Bapurao Deshmukh
WITH
WRIT PETITION NO. 3151 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Chandu Ramkrishna Chafle
WITH
WRIT PETITION NO. 3152 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Chitrabai Deorav Wadule
WITH
WRIT PETITION NO. 3153 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Damini Pravin Deshmukh
WITH
WRIT PETITION NO. 3154 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Vijaya w/o Sudhir Gabhane
WITH
WRIT PETITION NO. 3155 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Ashiwini Ravindra Deshmukh
WITH
WRIT PETITION NO. 3156 OF 2024

Jansewa Griha Nirman Developers and Builders
V/s
Pushpa Raju Ghatole

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

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Mr. R.R. Pimpalkhute, counsel for the petitioners in all petitions.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/05/2024.

1. The petitioners are challenging the order dated 04/05/2023 passed by the National Consumer Dispute Redressal Commission, New Delhi in Revision Petition No. 2030/2017, thereby dismissing the Revision Petition.

2. The petitioners are the purchasers of the agricultural land admeasuring about 5.5 acres, Patwari Halka No. 38, Khasra No. 143, from one Smt. Sarjabai w/o Janbaji Patil. Thereafter, the petitioner decided to float a scheme on the land on monthly instalment basis with undeveloped layout plan of 102 plots on 11/08/2000. Accordingly, it has exhibited on a board on front side of office mentioning “the undeveloped plots for sale at Mauza Pipla a village having distance of 5-6 kms from the office.”. In response to the exhibited board, several enquiries came from peoples who discussed and also paid the booking amount. The scheme of the petitioner was to sell the plots of the land, and it was not the business of the petitioner to develop the layout. The Government of Maharashtra had allowed the developers to register the sale-deeds of undeveloped plots in layouts, and the said rule is evident from the registered sale-deed dated 28/03/2002 of Smt. Varsha Suhas Bhide and Saptshrungi Builders and Developers Nagpur.

3. Considering the rule for undeveloped layouts, the petitioner floated the scheme at proposed layout for undeveloped plots without guarantee of conversion of agricultural land into non-agricultural land for residential use. The petitioner had initially decided to sale 60 plots in the layout and number of purchasers had decided to purchase the plots after verifying the title of the agricultural land on the conditions as enumerated by the petitioner. It was expressly represented to the purchasers, including the complainants that the land is reserved for agricultural purpose and conversion into non-agricultural for residential use is not easy. The same were putforth in the agreement to sale also, and the instalment payment card also, and thereafter, the amount towards the booking was deposited.

Thereafter, the respondent/complainant and other purchasers required to pay their monthly instalment before 10th of every month, failing which the penalty of 0.80 paise per day was stipulated, till clearance of arrears and receipts were being issued by authorized person and recorded in instalment card. Accordingly, the respondent/ complainant was depositing their payment of monthly instalment. Subsequently, the complainant failed to pay the entire sale price of plots within the stipulated period of 24 months as mentioned in the agreement. Due to the said defaults, the issue of clearance were discussed with them regularly and due to inaction of the complainant to clear

the dues, the petitioner was compelled to issue the cancellation letter of the allotted plot to the complainant.

Thereafter, the complainant has filed the complaint before the District Consumer Forum which is allowed. The District Consumer Forum passed a common order on 16/11/2005 in the 10 complainants filed by the different complaints. The said complaints were partly allowed and the petitioner was directed to execute the sale-deed in favour of the two complainants in two complaints bearing Nos. 361 and 391 of 2004. After accepting the balance consideration amount of the two plots from them and to pay Rs. 500/- each to the complainant. In the other 8 complaints, the petitioner was directed to refund the amount along with interest at the rate of Rs. 12% and to pay cost of Rs.500/- each to the complainants.

4. Aggrieved by the order dated 16/11/2005 in the 8 complaints, the respective complainants preferred an appeal before the State Consumer Disputes Redressal Commission, Maharashtra Nagpur. All said appeals were partly allowed by the State Consumer Disputes Redressal Commission, Maharashtra, Nagpur, and the matter was remanded back to the District Consumer Forum, for fresh evidence and disposal as per law.

5. Being aggrieved by the order dated 16/11/2005 passed by the District Consumer Forum, the petitioner has filed an appeal in the State Consumer Dispute Redressal Commission. As the matter was remanded and transferred

to the Additional District Consumer Forum, Nagpur on 29/11/2008 wherein the complaints were allowed and the petitioner was directed to execute sale-deed on 8 plots in favour of the 8 complainants. Aggrieved by the said order dated 29/11/2008, the petitioner filed an appeal in the remaining 8 complaints as well as bearing Appeal Nos. A/1036/2008 to A/1043/2008 the total 10 appeals. The State Consumer Redressal Forum dismissed the appeal filed by the petitioner. Aggrieved by the order dated 18/06/2016 passed by the State Commission, the petitioner preferred a revision petition before the National Consumer Disputes Redressal Commission. Now, the National Consumer Dispute Redressal Commission, dismissed the revision petition and therefore, being aggrieved by the order passed by the National Consumer Dispute Redressal Commission, the petitioner constrained to approach this Court.

6. It is submitted by the learned counsel for the petitioner that the order passed by the District Consumer Forum is without jurisdiction and therefore, interference at the hands of this court in execution is called for.

7. Issue notice to the respondent in all connected petitions.

8. Learned counsel for the petitioner submitted that, today all the petitions are kept before the District Forum for the execution and there is apprehension of issuance of directions to register the sale-deed. If such directions are

issued then the present petitions would become infructuous. In view of that, the petitioners be protected till appearance of the respondents in all petitions.

9. Perused the record, there is no dispute as the fact that the order passed by the District Consumer Forum is confirmed up till National Consumer District Redressal Forum. However, considering that there is every likelihood of issuance of order in execution to register the sale deed, and if such order is passed, all the petitions become infructuous.

10. In view of that, the District Consumer Forum shall not take any coercive steps till appearance of the respondents in all these petitions.

11. Stand over on 10/06/2024.

12. The parties shall act upon duly authenticated copy of this order.

[URMILA JOSHI-PHALKE, J.]

Signed by: Mr. R.K. NANDURKAR
Designation: PA To Honourable Judge
Date: 24/05/2024 20:14:09

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