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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 462/2023 & CM 28131/2023, CM 28132/2023, CM 28133/2023

JBB EVEREST BUILDTECH PRIVATE LIMITED Appellant

Through: Mr. Gaurav Mitra, Ms Lavanya Pathak
and Mr Kunal Godhwani, Advocates.

versus

NARESH CHAWLA

..... Respondent

Through: Mr Rakesh Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

19.02.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. This appeal is directed against the order dated 08.05.2023 passed by the learned Single Judge.
2. Dehors the legal issues that have been raised by the appellant, what has emerged is that the respondent deposited Rs.22 Lakhs with the appellant in the hope that he would be allotted a flat.
3. Meanwhile, when the proceedings were pending before the State Consumer Dispute Redressal Commission [in short, "State Commission"], the appellant underwent Corporate Insolvency Resolution Process, which later morphed into a Resolution Plan [RP].

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4. The RP was, admittedly, sanctioned by the National Company Law Tribunal [in short, “NCLT”] on 05.04.2021. It is undisputed that the RP did provide a thirty (30) day window for lodging a claim, even after approval to the RP was granted by the NCLT.

5. There is a debate as to whether an affidavit filed by the respondent would have sufficed and recognised in law as lodgement of claim under the extant statutory regime.

6. Mr Gaurav Mitra, learned counsel, who appears on behalf of the appellant, says that an affidavit would not suffice for the reason that the claim had to be lodged in the prescribed form.

7. Mr. Rakesh Kumar, learned counsel, who appears on behalf of the respondent, says that dehors the fact as to whether the affidavit would suffice, the appellant was duly bound to inform the respondent about such a window being available in the RP because proceedings at the relevant time were being carried on before the State Commission.

8. While arguments were on, a suggestion was made as to whether the matter could be settled, without prejudice to the rights and contentions of the parties.

8.1 Mr Mitra, on instructions, says that the principal amount i.e., Rs. 22 Lakhs would be paid to the respondent on or before 19.05.2024.

8.2 Mr Kumar says, on instructions, that if the appeal is disposed of based on the offer made on behalf of the appellant, the respondent’s grievances shall stand addressed fully. Mr Kumar states that the respondent would not claim



any interest and will withdraw the execution petition which is lying in the State Commission, once the principal amount i.e., Rs.22 Lakhs is remitted to him.

9. The appeal is, thus, disposed of in terms of the statement made by Mr Mitra that the appellant will pay Rs. 22 Lakhs to the respondent on or before 19.05.2024.

9.1 Once the said amount is paid, the respondent will withdraw the execution petition pending before the State Commission.

10. Needless to add, since we have not taken a view one way or the other on the legal submissions advanced by the counsel for the parties, this order shall not form a precedent.

11. Pending applications shall stand disposed of.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 19, 2024

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Click here to check corrigendum, if any