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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 15th May, 2024

+ CM(M) 572/2022 & CM APPL. 27468/2022

DLF HOMES RAJAPURA PVT LTD Petitioner

Through: Mr.Rajiv Nayar, Sr. Advocate
with Ms.Manjira Dasgupta,
Ms.Seema Sundd, Mr.Prabhat
Ranjan, Mr.Abhishek S. and
Mr.Ashray Bhatia, Advocates.

versus

AMARDEEP SINGH TIWANA & ORS. Respondents

Through: Mr.Prabhat Kumar Rai,
Advocate.

CORAM:

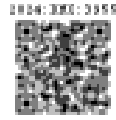
HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioner/company is invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India by challenging order dated 09.11.2021 passed by the learned Judge, NCDRC¹ in Consumer Complaint No.3111/2017 titled as 'Amardeep Singh Tiwana & 2 Ors. v. DLF Homes Rajapura Private Ltd'.

2. The NCDRC by way of impugned order has disposed of IA No.6099/2021 moved by the claimants (respondents in the present writ petition) thereby rejecting the objection by the petitioner that the claim is not maintainable in terms of Section 12(1)(c) of the Consumer Protection Act, 1986.

¹ National Consumer Disputes Redressal Commission, New Delhi



3. Learned counsels for the parties present today however submit that the issues raised in the present petition are now squarely covered by the judgment of this Court in the case of **Lucina Land Development Ltd. v. Union of India and Ors.**².

4. Learned counsel for the petitioner has alluded to para 54 of the judgment in Lucina Land Development Ltd. which reads as under :

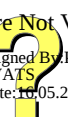
“54. Having said that, however, this order would not preclude the complainants from filing a proper complaint, keeping in mind the observations contained hereinabove, as a class action proceeding under Section 12(1)(c) or otherwise, before the appropriate forum, which might even be the learned NCDRC. Any such complaint, if and when filed, would be decided by the concerned forum in accordance with law and keeping in view the observations contained in the present judgment.”

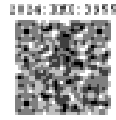
5. However, learned counsel for the respondents urged that their case is on a different footing as the matter is now listed for final hearing before the NCDRC. It was further urged that although he has no objection that the respondents may seek remedy in terms of judgment of the Supreme Court in **Brigade Enterprise v. Anil Kumar Virmani**³, however, the order as regards maintainability under Section 12(1)(c) of the Consumer Protection Act should not be reopened. I am afraid that the pleas raised by the learned counsel for the respondents cannot be sustained.

6. The present petition is disposed of with the direction that

² 2022 SCC OnLine Del 1274

³ (2022) 4 SCC 138





respondents shall be entitled to avail appropriate remedy in terms of the judgment of the Supreme Court in **Brigade Enterprise v. Anil Kumar Virmani** and all the issues shall remain open to be adjudicated in accordance with law.

7. The petition is disposed of accordingly along with pending applications.

DHARMESH SHARMA, J.

MAY 15, 2024
VLD