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

+ **CM(M) 2464/2024**

ORRIS INFRASTRUCTURE PVT LTD Petitioner

Through: **Ms. Jyoti Taneja, Adv.**

versus

BHARAT BHAL & ANR.

..... Respondents

Through: **Mr. Nalin Kohli, Ms. Nimisha Menon, Ms. Vijeta Singh and Ms. Shruti Agrawal, Adv. for R-2/IRP**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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01.05.2024

CM APPL. 25485/2024 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M) 2464/2024 & CM APPL. 25486/2024 (Stay)

3. The petitioner company is invoking supervisory jurisdiction of this Court under Article 227 of the Constitution of India for setting aside of the impugned order dated 02.03.2023 followed by an order dated 12.02.2024 on its review application by the NCDRC¹.
4. None is present for the respondent No.1 despite sending advance notice.
5. However, Mr. Nalin Kohli, Advocate representing the IRP² Mr. Pradeep Kumar Kaushik is present for respondent No.2, who submits that claim of respondent No.1 has already been verified by the IRP in

¹ National Consumer Disputes Redressal Commission

² Interim Resolution Professional



terms of its report dated 23.08.2023 reflected at page no. 397 of the paper-book *vide* Serial No. 135.

6. Having heard the learned counsels for the parties present, the long and short of the submissions is that respondent No.1/complainant is a homebuyer, who is aggrieved of the inordinate delay that has occurred in completion of the project providing for residential units at Greenopolis, Gurgaon, which project was being espoused by the respondent No.2, and thereby seeking various reliefs in the nature of refund of amount invested with interest & damages by filing complaint bearing CC No. 1846/2019.

7. Initially, the complaint was filed against respondent No.2 only but later on after almost four years, the present petitioner was sought to be impleaded by filing IA No. 1184/2023, which IA came up for hearing on 02.03.2023, on which date a batch of cases on the same subject involving several consumer/investors/homebuyers were listed wherein both the petitioner as well as the respondent No.2 were arrayed as respondents.

8. The petitioner claiming that he was neither necessary not a proper party to the claim petition as no agreement had been executed between it and the homebuyers, sought its deletion from the array of parties in such matters

9. The grievance of the petitioner company is that on 02.03.2023 the matter was heard by the learned Judges of the Division Bench, NCDRC and one set of order reflected as under:

“On the request of the parties, the matter is adjourned for today. It is made clear that application for deletion moved by the OP shall be decided on the next date. Issue notice of all the IAs of Deletion of the parties to the complainant. List on 18.7.2023 for final hearing. In the meantime, both parties to file short synopsis of written arguments, atleast two weeks before



the next date.”

10. It is stated that when the certified copy was applied, the following order came to be noticed:

“IA No. 1184/2023 has been filed by the Complainant for impleading one more OP IA is allowed.
Issue notice to the newly impleaded OP.
List on 28.08.2023 for Final Hearing.”

11. It is submitted by the learned counsel for the petitioner that no notice of the IA No. 1184/2023 dated 01.02.2023 was ever served upon it and no arguments were addressed upon the same on 02.03.2023 and the second order appears to have been passed without any opportunity of hearing to it, which is against all the canons of the principles of natural justice.

12. It appears that review application bearing IA No. 7706/2023 was moved on 20.06.2023 and it was directed that the same be placed for hearing before the learned Division Bench on 18.07.2023. However, the matter was listed before an entirely new Bench presided over by a learned Single Judge on 16.01.2024 and despite taking an objection that the clarifications sought with regard to order dated 02.03.2023 be addressed by the learned Division Bench, learned Single Judge *vide* order dated 12.02.2024 *inter alia* decided as under:-

“.....

Consequently, in passing an order on the limited prayer to “Clarify” the Order dated 02.3.2023, it is clarified that the present Consumer Complaint has become segregated from rest of the bunch matters w.e.f., the date of the said Order, and the Applicant’s prayer for impleadment of the present Application as an additional Opposite Party in the Complaint, was allowed on that date, irrespective of the fact whether or not any notice prior to such Order allowing the impleadment had been issued to the Applicant and whether or not the appearance from any one representing it on the date was actually made. Suffice it to say, this single Bench is not in a position to say anything more on the aforesaid Order dated 02.03.2023 which was passed by a Division Bench.”



13. *Ex facie*, the impugned order dated 12.02.2024 cannot be sustained in law for the simple reason that the order dated 02.03.2024 had been passed by the learned Judges of the Division Bench, and thus, clarifications, if any, should have been addressed by the learned Judges in the Division Bench, particularly when the learned Single Judge in the operative part of the order was alive to such aspect of judicial propriety. This is in the teeth of the fact that even the complaint/ petition of the respondent No.1 bearing CC No. 1846/2019 was listed for hearing in the batch of matters before the learned Division Bench on 02.03.2023.

14. In the aforesaid backdrop, learned counsel for the petitioner has very strangely urged that since the Supreme Court is already seized of matter pertaining to the CIRP³ with regard to the respondent No.2 and *status quo* has been ordered to be maintained *vide* order dated 13.10.2024 *including assets of respondent no.2*, and it is but necessary that the proceedings before the NCDRC be placed in abeyance.

15. In my considered view, there are no exceptional grounds to stay the proceedings before the NCDRC. However, in view of the fact that there are two orders on the record in the instant matters dated 02.03.2023, it is but necessary that necessary clarification be considered and addressed by the learned Judges in the Division Bench, NCDRC.

16. Accordingly, the impugned order dated 12.02.2024 is hereby set aside. The matter is remanded back to the learned Judges in the Division Bench, NCDRC, Delhi to afford a fresh hearing to the petitioner in IA No. 7706/2023 so as to clarify its orders dated

³ Corporate Insolvency Resolution Process



02.03.2023 in the batch matters, and the same may be decided as per law.

17. The present Writ Petition as also all the applications moved stand disposed of.

DHARMESH SHARMA, J.

MAY 1, 2024

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