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

% **Date of decision: 15th May, 2024**

+ **CM(M) 1333/2019**

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

UNION OF INDIA & ORS Respondents

Through: **Mr.Anil Soni, CGSC for UOI**
with **Mr.Vinod Tiwari,**
Mr.Devvrat Yadav, GPs with
Mr.Vedpal and Mr.Rahul
Rathee, Advocates.
Mr.Aditya Parolia, Mr.Akshay
Srivastava and Mr.Vivek
Kumar, Advocates for R-2 to 8.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 11934/2021

1. Allowed, subject to all just exceptions.
2. The applications stand disposed of.

CM(M) 1333/2019 & CM APPL. 40236/2019, CM APPL. 11933/2021, CM APPL. 12533/2024;

3. The petitioner/company is invoking the supervisory jurisdiction of this Court under Article 227 of the Constitution of India challenging the order dated 27.08.2019 passed by the learned Judge,



NCDRC¹ in consumer complaint No.1311/2018 titled as ‘Hari Yogendra Tripathi & 6 others v. DLF Homes Rajapura Private Ltd’.

4. The NCDRC, by way of the impugned order, has disposed of IA No.10618/2018 moved by the claimants (respondents in the present writ petition), thereby rejecting the objection by the petitioner that the claim was not maintainable in terms of Section 12(1)(c) of the Consumer Protection Act, 1986.

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

6. 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.”

7. *Per contra*, learned counsel for the respondents has pointed out that the aforesaid decision has been challenged in SLP (C) No.16912/2022, before the Supreme Court, which *vide* order dated 10.04.2024 in the matter of Harish Raju Amin & Ors. V. Lucina Land

¹ National Consumer Disputes Redressal Commission, New Delhi

² 2022 SCC OnLine Del 1274



Development Limited & Ors., referred to an earlier decision in the case of **Brigade Enterprise v. Anil Kumar Virmani**³ and approving the dictum propounded, passed the following directions :

7. Having noted the above liberty and the ratio in Brigade Enterprise (supra), without commenting on whether the petitioners have commonality of interest, we deem it appropriate to restore the Consumer Case No.1204/2017 before the NCDRC. The learned NCDRC, in terms of the above liberty would proceed to adjudicate the complaint and decide the matter on merit. Due opportunities be afforded to both the parties to have their respective say in the said proceedings. The NCDRC before entering into the merits should decide whether the matter should proceed as a class action claim or it is a joint complaint in terms of the ratio in Brigade Enterprise (supra). It is ordered accordingly.

8. In view of the submissions made, the learned counsels for the parties, respondents/complainants shall be entitled to seek appropriate remedy in terms of the judgment of the Supreme Court in **Brigade Enterprise v. Anil Kumar Virmani** and all the issues raised shall remain open to be adjudicated in accordance with law.

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

DHARMESH SHARMA, J.

MAY 15, 2024/VLD

³ (2022) 4 SCC 138