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

\+ W.P.(C) 391/2025 and CM APPL.2015/2025 (Stay)

VDB WHITEFIELD DEVELOPMENT PVT LTD AND ORS .....Petitioners

Through: Mr. Nikhil Goel, Sr. Adv, Mr. Siddharth Garg, Mr. Srijan Sinha, Mr. Himanshu Chaubey, Ms. Lihzuu Shiney Konyak and Mr. Srajan Yadav, Advs.

versus

MADHUSUDHAN REDDY R AND ORS .....Respondents

Through: Mr. Chandrachur Bhattacharya and Mr. Manoj Kumar Dubey, Advs.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **16.01.2025**

1. The present petition has been filed by the petitioner seeking that execution proceedings initiated by the respondents vide Execution Application No.107/2022 in Consumer Complaint No.763/2020 pending before the National Consumer Disputes Redressal Commission (NCDRC), New Delhi be declared as *non-est*, illegal, unjust, arbitrary and bad in law.

2. The said execution proceedings are stated to have been filed by the respondents on 08.04.2022 seeking execution of an order dated 25.01.2022 (read with order dated 28.01.2022) passed by the NCDRC in the aforesaid consumer case.

3. A review of the said judgment was sought by the petitioners by way of a review application no.283/2022. The NCDRC vide order dated 09.01.2023 partly allowed the review application and modified the judgment

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dated 25.01.2022. It is submitted by learned senior counsel for the petitioner that the judgment dated 25.01.2022 stood vacated and merged in the order dated 09.01.2023, which is the final order in decree.

4. A perusal of the order dated 25.01.2022 reveals that the operative directions therein are as under:

> "*27. In view of the discussion above, the Consumer Complaint is partly allowed.*
> *The Opposite Parties are directed to:*
> ***(1) Complete the construction of the flats allotted to theComplainants in all respects, duly obtaining the –requisite Occupancy Cf3rlificate at its -own cost and responsibility and offer and give legal possession of the respective Flats to the Complainants within 3 months of the receipt of this Order.***
>
> ***(2) Pay delay Compensation to the Complainants @ 9% per annum from proposed date of possession, which would include grace period as per their respective agreement on the amount deposited, till obtaining Occupancy Certificate within a period of six weeks. In case of delay beyond this period, the delay compensation will be @ 12% per annum.***
>
> ***(3) Not to collect any maintenance charge till the receipt of Occupancy Certificate. The advance maintenance charge as given in clause 14.5 of the Construction Agreement and any other maintenance charges so far collected should be adjused towards the maintenance charge to be paid by the Complainants post receipt of Occupancy Certificate."***

5. The review order dated 09.01.2023, does not disturb direction nos. 1 and 3. The said order, however, modifies direction no.2 by directing as under :

> "*Except for the issue of payment of delay compensation, on all other issues raised by the learned Counsel for the Opposite Parties, we find that no new ground has been submitted which was not duly considered while passing the Order dated 25.01.2022. However, to the extent of the payment which has already been made by the Opposite Parties to*

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the Complainants towards delay compensation in terms of the Agreement is taken into account and the Order dated 25.01.2022 is modified to the extent that this amount will be adjusted towards the final delay compensation, which will be paid by the Opposite Parties as per Para-27 (2) of the Order dated 25.01.2022."

6. Learned senior counsel for the petitioner points out that the prayer in the execution application filed on behalf of the respondent seeks execution of orders dated 25.01.2022 and 28.01.2022. It is submitted that the respondents cannot be allowed to proceed with the execution of the said orders in view of the subsequent order dated 09.01.2023 passed in review.

7. A bare perusal of the orders passed by the NCDRC reveals that direction no.1 contained in paragraph 27 of the judgement dated 25.01.2022 has not been modified in the review order dated 09.01.2023 and as such, the said direction continues to subsist and operate. It is also the admitted position of respective counsel that direction no.1 has not been interdicted or stayed in appellate proceedings initiated by the Supreme Court. As such, this Court finds no impediment in the respondents continuing to seek execution of direction no.1 contained in the order dated 25.01.2022, passed by the NCDRC, subject however to the orders that may be passed in the pending appeal before the Supreme Court.This Court is, therefore, not inclined to accept the prayer in the present petition to the effect that the execution proceedings be declared *non-est* and illegal.

8. Learned counsel for the respondent submits that presently, the respondents are not desirous of proceeding with the execution of direction no(s).2 and 3 contained in the order dated 25.01.2022 and 28.01.2022; however, reserving the right to do so in future, subject to outcome of the proceedings pending before the Supreme Court. However, even for the

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purpose of proceeding with the execution qua direction no.1 in the order dated 25.01.2022, it would be apposite to carry out a formal amendment/ file an additional affidavit, so as to bring on record the developments that they have taken place after passing of the orders dated 25.01.2022 and 28.01.2022. It would be for the NCDRC to consider all relevant aspects of the matter, and proceed accordingly.

9. At this stage, in the aforesaid circumstances, this Court finds no ground to interdict with the execution proceedings and/ or to declare the same as *non-est* and illegal, as sought in the present petition.

10. The present petition is, accordingly, dismissed.

SACHIN DATTA, J

JANUARY 16, 2025/cl

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