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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 16th April, 2025**

+ CM(M) 650/2021 & CM APPL. 21851/2025 (exemption)

SUPERTECH LIMITED

.....Petitioner

Through: Mr. Vikas Sethi, Advocate.
(through V.C.)

versus

KANWAL BATRA & ANR.

.....Respondents

Through: Ms. Vrinda Kapoor with Ms. Saumaya
Soni, Mr. Vishal Vaid, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 21850/2025 (for early hearing)

1. The main petition is listed for 21.05.2025.
2. However, the abovesaid application has been moved by respondents (Decree Holders) seeking early hearing of the main petition.
3. Learned counsel for the petitioner has also joined the proceedings through *video conferencing* and with the consent of the parties, the matter has been taken up today itself.
4. The application stands disposed of accordingly.
5. The next fixed date i.e. 21.05.2025 stands cancelled.

CM(M) 650/2021

6. Mr. Kanwal Batra and his daughter filed a consumer complaint before the learned National Consumer Disputes Redressal Commission (in short "NCDRC") which was registered as Consumer Complaint No.1219/2017.



The abovesaid complaint was allowed by the learned NCDRC *vide* order dated 11.04.2019.

7. The operative portion of said judgment reads as under:-

“8. The complaint is therefore, disposed of with the following directions:-

(i) The opposite party shall offer possession of villa in question to the complainants within six months from today, after completing its construction in all respects as per the contractual obligation of the parties and obtaining the requisite occupancy certificate:

(ii) The OP shall pay compensation calculated @ 9% per annum of the amount paid by the complainant, w.e.f 01.03.2015 till the date on which the possession in terms of this order is offered;

(iii) The OP while offering possession shall be entitled to recover charges in terms of the view taken in Kamal Kishore & Anr. (supra);

(iv) The compensation payable to the complainants in terms of this order shall be adjusted out of the charges, if any, which remain payable to the OP in terms of decision of this Commission in Kamal Kishore & Anr. (supra) and the balance compensation if any, shall be paid at the time of offering possession in terms of this order.

(v) The OP shall also pay a sum of Rs.25,000/- as cost of litigation to the complainants.

(vi) If the OP is unable to obtain the requisite occupancy certificate in respect of the allotted villa and offer possession of the said villa to the complainants in terms of this order. It shall refund the entire amount received by it from the complainants to them along with compensation in the form of simple interest @ 10% p.a. from the date of each payment till the date of refund.”

8. Since the opposite party i.e. M/s Supertech Limited was unable to obtain the requisite Occupancy Certificate in respect of the allotted Villa, an Execution Petition was filed seeking refund of the entire amount in terms of the abovesaid order.

9. Such Execution Petition was registered as EA/304/2019.

10. During pendency of the abovesaid Execution Petition, the Managing



Director of the opposite party appeared before the Court and made a commitment that the abovesaid order of learned NCDRC would be complied within sixty days.

11. Such statement was made on 20.07.2021.

12. The bailable warrants, which had been earlier issued against him, were cancelled on his such assurance and he was also directed to ensure that such commitment was duly complied with.

13. However, when the matter was taken up by learned NCDRC on 20.09.2021, noticing that there was no compliance of such direction and that the Managing Director has backed out of his own commitment, he was, straightaway, sentenced for three years of imprisonment *in absentia* and warrants of arrest were, accordingly, issued against him.

14. Such order dated 20.09.2021 is under challenge.

15. When this petition was filed before this Court and was taken up for the first time on 24.09.2021, on the basis of the assurance coming from the petitioner herein, direction was given to make some payment to the Decree Holders. Thereafter also, further directions, with respect to further payment were passed by this Court, from time to time.

16. The decretal amount was stated to be Rs.1,79,00,000/- at the relevant time and fact remains that the Decree Holders have, admittedly, received a sum of Rs.1,50,00,000/- during the pendency of the present petition.

17. As per learned counsel for the Decree Holders, the balance amount would be in the vicinity of Rs.30,00,000/- approximately.

18. Since substantial amount has already been paid, at the present juncture, this Court feels that no useful purpose would be served by keeping this petition pending anymore and by maintaining the order on sentence, which is



impugned before this Court. However, since, admittedly, the entire decretal amount has yet not been paid and the Execution Petition, is not yet fully satisfied, in the interest of justice, while setting aside order dated 20.09.2021, request is made to learned NCDRC to take up the Execution Petition afresh and to dispose that of in accordance with law.

19. In order to ensure that requisite assistance in this regard is provided by the opposite party, Mr. Mohit Arora, the Managing Director of M/s Supertech Limited, shall keep on appearing before learned NCDRC as per the directions to be passed in this regard by it. This Court expects that such direction shall be followed by him scrupulously.

20. Learned NCDRC would be at liberty to follow the procedure prescribed under Chapter XXI Cr.P.C. for the purpose of due execution and realization of the balance decretal amount. If required, it shall also be at liberty to take recourse to Section 27 of Consumer Protection Act, 1986. However, this Court does not have to lay emphasis that execution proceedings and action, if any, under Section 27 of Consumer Protection Act, 1986 would be, strictly, in accordance with law.

21. There is no next fixed date before learned NCDRC with respect to the execution in question and as per the convenience expressed by both the sides, let such Execution Petition be taken up by learned NCDRC on 28.04.2025. On said date, the petitioner herein i.e. Mr. Mohit Arora, the Managing Director of M/s Supertech Limited shall appear physically.

22. Keeping in mind the fact that complainant No.1 is a senior citizen, learned NCDRC may give requisite priority to the abovesaid Execution Petition and would make best endeavour to decide the same, as expeditiously as possible.



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23. The present petition, along with pending applications, if any, stands disposed of in aforesaid terms.
24. Copy of the order be given dasti under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

APRIL 16, 2025
st/SS