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

\+ W.P.(C) 10901/2022 & CM APPL. 31728/2022

HETALI ENTERPRISES AND ANR .....Petitioners

Through: Mr. Robin Jaisinghani, Adv.

versus

DR. PURUSHOTTAM G.KALE .....Respondent

Through: Mr. Viraj Kadam, Adv.

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\+ W.P.(C) 10921/2022 & CM APPL. 31820/2022

HETALI ENTERPRISES AND ANR .....Petitioners

Through: Mr. Robin Jaisinghani, Adv.

versus

DR.VIJAY PURUSHOTTAM KALE .....Respondent

Through: Mr. Viraj Kadam, Adv.

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\+ W.P.(C) 10922/2022 & CM APPL. 31822/2022

HETALI ENTERPRISES AND ANR .....Petitioners

Through: Mr. Robin Jaisinghani, Adv.

versus

DR.SATISHCHANDRA PURUSHOTTAM KALE & ANR. .....Respondents

Through: Mr. Viraj Kadam, Adv.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

<u>O R D E R</u>

% **07.01.2026**

1. These three petitions have arisen out of a similar order dated 13.05.2022 passed in three different review petitions.

2. The facts of the case would indicate that there were three complaint cases registered at the instance of the complainants before the National Consumer Disputes Redressal Comission ['**NCDRC**'], New Delhi.

3. *Vide* final order dated 08.12.2021, the NCDRC allowed the complaints in the following terms:

> *"21. We further note that on one hand the society-Opposite Party No. 2 initially made no compulsion to its members to pay the charges towards the deficiency in open space, However, later on, the Society admitted that the MCGM demand Rs. 8.99 crore to be entirely payable by the individual members of the Opposite Party No. 2 Society and alleged that the Complainants unnecessarily filed the Consumer Complaints against the Opposite Party No. 1.*
>
> *22. It is apparent from the record that the value of each flat was more than 2 crore in 2016, there was delay of 8 months to hand over the possession. The Opposite Parties made the Complainants to suffer physical stress and mental agony, therefore the Complainants deserve for a fair compensation.*
>
> *22. In the light of the above discussion, we find, both, Deficiency in Service within the meaning of section 2(1) (g) & (0), and Unfair Trade Practice within the meaning of section 2(1) (r), to be well and truly evident on the part of the Opposite Parties since the Opposite Party No. 1 did not pay the amount in timely manner as per the Agreement. In remedy, it would be just and equitable to direct the Builder Co., the Opposite Party No. I to pay the following amounts to each of the Complainants:-*

i) To refund the charges to the Complainants collected by the Opposite Party No. I towards deficiency in open space @9% p.a. since 06.01.2015 till its realization.

ii) The amount towards shortage in the carpet area @ Rs.24,650/- per sq.ft on the date of possession with the interest @9% p.a. from 05.01.2016 till its realization.

iii) Rs. 10,00,000/- towards mental agony and Compensation for delay of 8 months in handing over possession.

iv) The Opposite Parties Nos. 1 and 2 are directed to pay Rs. 2,00,000/-jointly and severally towards the litigation costs to each of the Complainants.

The aforesaid direction shall be complied with within a period of six weeks from today, failing which the amount shall carry interest @ 12% p.a. till its realization."

4. Against the order passed by the NCDRC the petitioners herein have approached the Supreme Court in separate civil appeals. Three appeals were registered bearing Civil Appeal No.2452/2022, 2461/2022 and 2561/2022. The Supreme Court *vide* order dated 04.04.2022 did not find merit to interfere with the orders passed by the NCDRC.

5. Learned counsel appearing for the petitioners, then sought liberty to withdraw the civil appeals with a view to approach the NCDRC in review petitions to point out the purported 'factual errors'. The Supreme Court, therefore, dismissed the appeals as withdrawn with liberty to point out the 'factual errors', if any, before the NCDRC. The Supreme Court, however, specifically emphasised that the reviews should be confined to the 'factual errors', if any, only.

6. For the sake of clarity, the order passed by the Supreme Court is extracted as under:

"As to such on merits, we see no reason interfere with the impugned judgment and order passed by the National Consumer Dispute Redressal Commission (For short "National Commission"). However, learned counsel appearing on behalf of the appellant(s) has submitted that the judgment was delivered after delay of one year and there are some factual errors. Therefore, learned counsel for the appellant(s) seeks permission to withdraw the present Civil Appeals with a view to approach the National Commission by way of review petition to point out the factual errors

In that view of the matter(s), all these civil appeals stands dismissed as withdrawn with the above liberty to point out the factual error, if any.

However, it is clarified and observed that the review application(s) shall be confined to the factual errors, if any, only.

The question of law with respect to jurisdiction of the National Commission is kept open, to be considered in appropriate case.

The Civil Appeals are dismissed as withdrawn.

Pending applications, if any, stand disposed of"

7. In view of the liberty granted by the Supreme Court, the petitioners had preferred three review petitions. The factual errors according to the petitioners were pointed out in separate headings namely: a) Delay in passing of the order, b) pecuniary jurisdiction, c) alleged shortage of area, d) alleged delay in possession, e) on refund of open area deficiency premium thereafter and f) on the point of coercion/duress. The NCDRC, however, *vide* impugned order held that the order dated 08.12.2021 was self-contained and self-speaking. It, therefore, did not found any reason evident to reopen and re-examine the case of review. Accordingly, the review petitions were dismissed.

8. Mr. Robin Jaisinghani, learned counsel appearing for the petitioners has placed reliance on a decision of the Supreme Court in the case of ***Indian Oil Corporation Ltd. Vs. Ashok Kumar Arora***[1], ***Kranti Associates Pvt. Ltd. & Anr. Vs. Masood Ahmed Khan & Ors.***[2]***, Raltesh Bhatnagar Vs. Union of India and Others***[3]**.** He also cites the decision of the Division Bench of the High Court of Patna in ***Jagdish Vastralaya and others Vs. State of Bihar & Ors.***[4]. The primary submissions of Mr. Jaisinghani is that the NCDRC exercises quasi-judicial power and, hence is under an obligation to assign reasons while passing any order on review. Mr. Jaisinghani has taken the Court through various observations made by the Court in the decision cited by him. He, therefore, submits that there is no consideration at all made by the NCDRC and hence, a palpable error has occurred, calling for for interference under Article 227 of the Constitution of India.

9. On the other hand, Mr. Viraj Kadam, learned counsel appearing for the respondent- original complainants opposes the submissions and points out that the review petitions themselves seek for re-appreciation of the entire material and there is no 'factual error' pointed out by the petitioners, much less any substantial error, to warrant the recall of the earlier order. He, therefore, justifies the impugned orders.

10. The parties were heard at length and the Court has considered the findings rendered by the NCDRC in its order dated 08.12.2021.

[1] 1997 (3) SCC 72
[2] 2010 (9) SCC 496
[3] (2014) 15 SCC 646
[4] AIR 1964 Patna 180

The Court has also considered the order passed by the Supreme Court. If the averments made in the review petitions are considered, the same would seek for the re-appreciation of the entire matter afresh.

11. Mr. Jaisinghani points out that while in the complaints, the complainants themselves have taken the position that on 20.01.2013, fats were vacated; however, the NCDRC in its final order has reckoned the delay from 31.01.2012. He, therefore, points out that when the flats were vacated only on 20.01.2013, no delay can be attributed to the petitioner from 31.01.2012. He has also pointed out certain other alleged factual errors from the petitions. The Court, however, finds that in the final order passed by the NCDRC, the overall facts and circumstances have been considered. The fact that the flats were handed over by the petitioner to the complainant only on 01.01.2016 has been noted, hence the alleged factual error would have no significance.

12. The argument that the impugned orders are not speaking also loses its significance as this Court itself has considered the alleged factual errors and finds that there is none warranting recalling of the earlier orders.

13. Accordingly, the petitions are, therefore, dismissed.

PURUSHAINDRA KUMAR KAURAV, J

JANUARY 7, 2026/p/amg