



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

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Reserved on: 12th March, 2026

Pronounced on: 11th May, 2026

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RFA 949/2025

LALIT KUMAR

R/o C-104, The Jewel of Noida,
Point No. G-14, Eco City, Sector 75,
Noida-201301.

.....Appellant

Through: Mr. M P Sahay, Ms. Yaman Verma,
Ms. Chitra Chanda, Mr. Kartik Jindal
and Mr. Kartik Virmani, Advocates.

Versus

E-HOMES INFRASTRUCTURE PVT. LTD.

Dasnac Annexe I ECE House,
28A Kasturba Gandhi Marg,
Delhi-110001.

.....Respondent

Through: Mr. Sunil Dalal (Sr. Adv.) alongwith
Srinivasan Ramaswamy, Mehak
Nakra, Gunjan Suyal, Ankit Rana,
Shipra Bali & Sarthak Malhotra,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. Regular First Appeal under Section 96 read with Order XLI CPC has been filed by the *Plaintiff/Appellant* whereby his *Suit for Compensation/Damages, Mandatory Injunction, Declaration and for Rendition of Accounts*, has been **dismissed, vide Judgment dated 31.08.2024.**
2. The 12 Plaintiffs including the Appellant had filed *Civil Suit No.220/2024 under Section 12 Specific Relief Act for Compensation/Damages/Mandatory Injunction/Declaration and for Rendition of Accounts.*
3. The *facts as stated in the Complaint*, are that the Defendant E-Homes Infrastructure Pvt. Ltd. is a Private Limited Company engaged in the business of real estate development having its registered office at Kasturba Gandhi Marg, Delhi. The Defendant was allotted land by Noida Authority, to develop the land in various phases which included the Project the Jewel of Noida (hereinafter referred to as '*the Project*'), to develop and complete the same into a Group Housing Complex.
4. The public at large including the Plaintiffs, were lured by the representations that the Project would be a state-of-the-art Project with the best of facilities and amenities. Various advertisements in print and electronic media were taken out specifying the areas, super areas and carpet areas, maintenance aspects, quality of construction, spacious and convenient car parking etc. The Plaintiffs applied for their respective units/apartments in the said Project. Offer letters were issued broadly underlining the terms and conditions for the sale of the properties to the Plaintiffs.
5. The Plaintiffs claimed a massive shortfall and disparity in actual/carpet area vis a vis the super area, which was in total violation of the



permitted loading limit of the Builder Buyer Agreement and other laws, rules and guidelines.

6. Despite the law and rule being clear on the area, super area and carpet area, maintenance charges and all other aspects, the Defendant Builder in a mala fide manner did not transfer the maintenance to the Owner's Association, which it was bound to do. More than 60 months have elapsed since the possession was offered/taken, but till date the transfer has not happened. The Defendant Builder is obviously usurping money from the residents in the name of maintenance and profiting from the same.

7. The Defendant Builder has also been trying to create all sorts of obstacles and hindrances in formation of lawful AoA/Owner's Association. The one which has been formed is wholly illegal and various illegalities including forgery is being committed by the Defendant Builder. The concerned residents/ Plaintiffs and others, have been pursuing criminal litigation before the *jurisdictional Courts in District Gautam Budh Nagar (U.P.)*. The Membership has been taken @ Rs.1,000/- and the signatures had been obtained in the Register, on various dates in the first half of the year 2018, but no AoA has been formed and there are gross illegalities in its formation and functioning.

8. The Defendant has deliberately kept Units unsold, so as to create grounds for not transferring the maintenance to the Owner's Association, clearly to negate Section 14(5) of the U.P. Apartments Act, 2010 and also Section 11 of RERA. Furthermore, one Tower is still incomplete in respect of which, the Defendant keeps extending dates of its completion as reported to RERA, which as per the latest figure is 04.11.2028, once again to circumvent the transfer of maintenance.



9. As per the Lease Deed issued by Noida Authority, the Project consisting a total of 7 Towers, was to be completed by March, 2020 i.e. within a period of 10 years from the date of original Lease Deed. As stated before RERA, the Defendant has given the date of completion as 04.11.2028, without any basis or approval from Noida Authority.

10. The *Maintenance Agreements* were signed by the Plaintiffs under pressure and as they had no other option, the Defendant being in a dominant position. Not just the Maintenance Agreements, but many other valuable security documents such as stamp papers, undertakings etc. have been obtained under duress and have been further misused.

11. The AoA was formed and registered on 11.07.2019, after a delay of 9 months and it came to be known as "*The Jewel of Noida Association of Apartment Owners*". A.G.B.M was purportedly held on 18.11.2018, so that it would be within one year of offering of possession, which is the criterion as per the Rules for formation of AoA.

12. The Affidavit of the Secretary concerned was filed on 03.06.2020, when the residents moved for the formation of an Association of their own. There are approximately 250 allottees as on 18.11.2018, out of which 150 are residing in the Project, though only 10 were reported to the concerned Registrar's Office. Incidentally, one of these 10 was an employee of the Defendant. This was again done to circumvent the criterion of minimum 10 allottees. If the name of this one employee of Defendant is undone, the number gets reduced to 9 and the criterion of 10, cannot be fulfilled. These 10 naturally took charge as office bearers of the Association and no elections took place, even though the Rules stipulated that the Board of



Management is to consist of 4-10 office bearers, who are the owners/co-owners of the Apartments in the Project.

13. The functioning of AoA has also not been proper. The AoA became *kalateet* (time barred) for not conducting the elections within one year. The election of a New Board was announced by Dy. Registrar (Societies) Meerut twice. The election process was sabotaged by the Defendant and the elected Board of flat owners was stayed on 16.02.2024 by SDM (Dadri), who is investigating in the elections related complaints, which have been filed by Mrs. Sangeeta Sharma in February, 2022 at the behest of the Defendant.

14. *Exorbitant Club charges* are being levied on a monthly basis, despite the Plaintiffs having paid one-time Club charges at the time of booking/purchase. They had given Rs.1 Lakh, despite which the Defendant is demanding monthly Club charges from all the residents @ Rs.1,000/- per month per flat. *The GST and taxes are being levied on monthly maintenance charges, for which there is no basis or justification.*

15. The Defendant is charging for the meter (pre-paid meter charges). As and when the amount charged/ credited for the prepaid meter gets exhausted, the electricity supply is stopped, even though the amount charged would be sufficient for the entire month. The Builder has stopped deducting maintenance charges for meter from 20.07.2020, but is still deducting Rs.10.25 per KW, Rs.100 per KVA for DG fix charges and Rs.30/- for meter vending charge, which comes out to be Rs.742.50 per month of 5KVA connection and 2 KVA DG connection, in addition to electricity charges for Rs.6.9 per unit for UPPCL supply and Rs.19/- per unit for electricity from DG.



16. The Defendant has diverted the *electricity supply from residential areas to be used for commercial purposes in construction of Tower F and A which has the Marketing Office*. In addition, other resources of Maintenance are also being diverted for the said purpose. The electricity through DG, has been stopped to two Plaintiffs Mr. Lalit Kumar i.e. the Appellant and Mr. Varun Singh Chandel, since 29.04.2022.

17. Various issues have been brought to the knowledge of the Builder, but no remedial/ corrective steps have been taken. The *audited accounts of the maintenance account have not been produced or submitted*. The Pro-rata arrears of VAT charged from the Plaintiffs, has also not been paid. The sizable premium on the base price prevailing at the time of launch of the Project in 2013, was charged. The amounts varied from Rs.2 lakhs to Rs.3.50 lakhs, depending upon the size and the area of a particular flat.

18. *There is reduction in central lawn area*, contrary to what was represented in advertisement and brochures. The Marketing office has been constructed by the Defendant in the central lawn, which covers roughly 1/3rd portion of the lawn.

19. The *P.L.C and Green Belt Charges have been charged by the Builder as "preferential location charges" from the residents @ Rs.75/- per square foot for a corner flat*. However, since every flat is a corner flat, the basis for charging PLC, does not arise.

20. The Defendant has further *charged Rs.125/- per sq. ft. plus taxes, as being the Lawn/green area facing charges*. The Central Lawn, however, does not belong to Builder and the green belt on the back side of the Society, is just 3-4 ft wide alongside the boundary wall. Also, there is a cluster of jhuggis and garbage, on the back side.



21. In a similar way of misrepresentation, *Builder charged Lease Rent and Services @ Rs.95/- per sq. ft., but again charged Lease Rent at the time of possession/Execution of Sub Lease Deed and thus, charged the amount twice, unauthorizedly.*

22. *The Car Parking has virtually become unusable due to practical difficulties.* Moreover, the Defendant has sold some parking slots to multiple residents, which reflects that he has usurped the money of the home buyers/ residents.

23. The interest of delayed payments has not been paid by the Defendant. Initially, he started with ROI of 24% per annum and slowly reduced it in stages and finally in most of the cases 6% Simple Interest has been paid and also waived the same in some cases as the demand was not genuine. The unwarranted clauses in the sub-lease deed, were put by the Defendant Builder, misusing its dominant position.

24. The Builder had also stipulated a condition that at the time of transfer of the flat to any other person, the permission would be taken from the Builder and transfer charges at the rate prevailing at that time, would be paid to the Builder. A similar condition has been incorporated in the Bye Law of AoA that at the time of transfer ½% of the sale value shall be paid to AoA. The U.P Apartment Act stipulates the charges in such cases to be not more than 1%.

25. Moreover, the Builder has given rights to develop 700 sq. metres of commercial space, which is separate from the residential area. Some portions of Tower A are being used for this purpose, which is grossly illegal.

26. On 29.11.2017, Completion Certificate was given by the Noida Authority. The Possession offer was given to the Plaintiffs, on 02.12.2017.



Later on, the Unit allotments were done and possession letters were issued to various Plaintiffs by the Defendant.

27. The Plaintiff further claimed that he made various letters raising all the aforesaid concerns. On 18.04.2019 the Plaintiff received response from the Defendant regarding the ongoing correspondence, wherein they denied all the issues in a blanket, vague, ambiguous and unspecified manner. Various RTI Applications were made to the Public Information Officer, Noida with regard to various issues affecting the Plaintiffs, in the Project. A Representation was also written on 12.08.2020 to CEO, Noida highlighting various irregularities and misconduct on the part of Defendant Builder.

28. The Plaintiffs have further stated that on the issues raised in the Suit the Plaintiffs along with several others, had *approached National Consumer Disputes Redressal Commission vide Complaint No.864 of 2020 in the end of 2020*. The Complaint was decided **vide Judgment dated 14.06.2023 where the Commission held that issues before it were complex, omnibus, multifold and were the subject matter of trial by means of Civil Court.**

29. The *Civil Appeal No.6243/2023 was filed before the Supreme Court, which was dismissed on 27.09.2023 affirming the Judgment of NCDRC.*

30. The Plaintiff has thus, filed the present Suit with the prayers as under :

(i) *to resume the daily essential services (picking up garbage from flats and resumption of electricity thru DG) to Plaintiffs and to refund the fixed charges for electricity thru DG since April, 2022;*



- (ii) *a Money Decree to refund the wrongly charged farmer's compensation along with interest @ 12% per annum;*
- (iii) *a Money Decree in respect of excess areas, consequent stamp duty and registration along with interest @ 18% per annum for refund of interest on advance maintenance charges and MMC excess charges;*
- (iv) *Refund of P.L.C and Green Belt charges with interest;*
- (v) *Refund of fixed meter charges and all incidental and consequential costs and charges;*
- (vi) *Refund arbitrarily charged interest on delayed payment with GST;*
- (vii) *to refund wrongly charged tax including GST and VAT and other charges along with interest @ 12 %;*
- (viii) *to appoint an independent Architect/ Consultant/ Court Commissioner to measure and ascertain the actual basis with regard to carpet area, super area, loading limits etc;*
- (ix) *Mandatory Injunction to execute supplemental sub-lease deed by removing unwarranted and one-sided clauses;*
- (x) *for directing the Defendant to produce original copies of all forms, undertakings;*
- (xi) *directing the Defendant not to collect or charge maintenance directly*
- (xii) *to direct the Defendant to provide convenient, adequate, safe independent car parking space and to refund the charges towards car parking space along with interest @ 18%;*



- (xiii) *to direct the Defendant to assist in formation/ functioning of lawful Owner's Association;*
- (xiv) *Decree for Rendition of Accounts;*
- (xv) *directing the Defendant to pay compensation/ punitive damages and the cost of the Suit.*

31. The Defendant had moved an ***Application under Order VII Rule 11 CPC as well as Section 8 of Arbitration and Conciliation Act. The Suit*** has been **dismissed, vide Judgment dated 31.08.2024**. Aggrieved, the present Appeal has been preferred.

Submissions heard and record perused.

32. The Learned District Judge observed that as per the Clause 'E' of Order VII Rule 11 CPC, the Plaintiff should disclose the facts which constitute the cause of action and when it arose. In the Plaintiff, the Plaintiffs have articulated virtually every grievance which they may have against the Defendant Company, whereas what they were required to plead, was a cause of action.

33. In so far as the Electricity/ Maintenance Charges were concerned, it was already in adjudication by U.P RERA. The Appeal was also pending which the Plaintiffs had undertaken to withdraw. *Section 79 RERA Act prohibits the Civil Court to entertain a Suit or proceeding in respect of any matter which the Appellate Authority is competent to decide.* Consequently, already there is adjudication against one or the other Plaintiffs. It is not that the Plaintiffs had directly approached the Civil Court, consequently, on the aspect of maintenance charges, there is adjudication from the competent Authority, adverse to the Plaintiff which cannot be nullified by filing the



Civil Suit, as is sought to be done by the Plaintiff. The Consumer Complaint preferred by the Plaintiffs had also been dismissed, on account of the issues raised being complex. Furthermore, the Appeal preferred against the Judgment of the Consumer Forum dated 14.06.2023, has also been dismissed.

34. In so far as recovery of money was concerned, on the point of misrepresentation, fraudulent sale or such like reason, as per the documents filed on record, the properties had been individually purchased by the Plaintiffs through documents, which culminated into Sale Deeds. The Suit has been filed in the year 2024 in respect of Sale Deeds, much after the expiry of three years. The cause of action of recovery of money, is barred by limitation.

35. Furthermore, the **Civil Suit No.421/2022** titled '*Vaibhav Gupta &Anr. vs. E-Homes Infrastructures Pvt. Ltd.*' and **Suit No.754/2023** titled '*Lalit Kumar and Ors. vs. E-Homes Infrastructures Pvt. Ltd.*' had been filed in the Civil Court. The perusal of the Complaint shows that the Suits pertain to maintenance and electricity. Those Suits had been undertaken to be withdrawn. The Plaintiff had undertaken to withdraw the Suit and not to press the same, for filing of consolidated Civil Suit. In terms of Order 23 Rule 1 CPC, once the Suit is withdrawn without seeking any liberty, the cause of action agitated therein is lost and the Plaintiff is precluded from filing a fresh Suit in respect of the same cause of action. The Plaintiff had not specifically stated whether they had sought any liberty while withdrawing their Suits. Learned District Judge observed that the Plaintiffs were guilty of Forum hunting and were not respecting the Judicial verdicts adverse to them in their cases.



36. It may also be noted that there are 12 Plaintiffs and each has his independent cause of action. All their concerns cannot be clubbed together, because each case needs to be considered on its own facts. This is an omnibus case filed for adjudication of 12 independent distinct claims of 12 Plaintiffs.

37. The comprehensive perusal of the Complaint shows that there is also misjoinder of cause of action, aside from there being no clear averments to show that various claims made, are actually tenable or are within limitation. From the prayer paragraphs it is evident that though refund of various amounts has been sought, but no quantification has been done and it has been left for the Local Commissioner to be appointed, to ascertain the complete facts. The pleadings as well as the relief claimed, aside from being omnibus, are vague and incomprehensible. Further, Appeal has been filed by only one Appellant, Latit Kumar and others are not even a party to the present Appeal.

38. Learned District Judge has rightly observed that it is a case of abuse of process of law and has consequently dismissed the Suit with a cost of Rs.3,000/- on each of the Plaintiff, under Section 35-A CPC.

39. There is **no merit in the present Appeal, which is hereby dismissed**. Pending Applications are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 11, 2026

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