

ITEM NO.34

COURT NO.14

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (C) Nos. 6262-6420/2015

(Arising out of impugned final judgment and order dated 17-09-2013 in RP No. 1262/2008, 17-09-2013 in RP No. 1263-1314/2008, dated 19-05-2014 in RP No. 1262-1314/2008 and dated 23-05-2014 in RP No. 1262-1314/2008 passed by the National Consumers Disputes Redressal Commission, New Delhi)

D.D.A.

Petitioner(s)

VERSUS

RAJINDER PRASAD & ORS.

Respondent(s)

(IA No. 160/2015 -FOR PERMISSION TO FILE ANNEXURES)

Date : 04-04-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Deeksha Ladi Kakar, AOR

For Respondent(s) Mr. Abhishek Rai, Adv.
Mr. Pratap Shanker, Adv.
Mr. Kunal Sinha, Adv.
Mr. Swetank Shantanu, AOR

UPON hearing the counsel the Court made the following
O R D E R

Having heard learned counsel for the parties and having perused the material placed on record, we find no reason to grant leave in this matter so as to consider interference in the view taken by majority of the members of the National Consumer Dispute Redressal Commission, New Delhi ('the National Commission'), disapproving discrimination in pricing amongst the allottees belonging to the same category and class in the same Housing Scheme of the petitioner.

The questioned discrimination had arisen essentially for the reason that the complaining allottees of Rohini Housing Scheme, 2003 were issued demand letters on 15.09.2003 and they made payments accordingly but, only a few days later, the petitioner, by its resolution dated 29.09.2003, changed the pricing policy. This change had the effect of the petitioner demanding lesser amount from the other allottees of the same Scheme who were issued demand letters after the said resolution dated 29.09.2003. In particular, the components of service charges and share money were not demanded from the subsequent allottees of the same Scheme.

The complaining allottees moved the District Forum stating prejudice caused to them vis-a-vis subsequent allottees, particularly when the subsequent allottees were not subjected to several charges although they were standing, for all practical purposes, at par and at similar footing.

The District Forum allowed the complaints to the extent of service charges and share money after finding it to be a case of disparity and discrimination in relation to the similarly situated persons and the discrimination being brought out only because of the fortuitous circumstance that the decision to alter the pricing policy was taken by the petitioner a few days after issuance of demand letters to the complainants. The State Commission also agreed with the District Forum and dismissed the appeals.

In revision petitions, there was a difference of opinion between the members of the Bench of the National Commission and hence, the matter was referred to the third member. The third member agreed with the view favouring the complainants and for

dismissal of the revision petitions.

Learned counsel for the petitioner has attempted her best to persuade us to consider interference and has particularly referred to the decision of this Court in the case of *Tamil Nadu Housing Board & ors. v. Sea Shore Apartments Owners Welfare Association*: (2008) 3 SCC 21 to submit that the dispute relating to fixation of price of flats by the Housing Board may not be of the jurisdiction of the Consumer Fora and that no interference could be made in the matter of fixation of price by the allotting authority.

The decision in the case of *Tamil Nadu Housing Board* (supra) had been of entirely different fact situation, where the final selling price by the Board was not the same as the earlier projected tentative price. The additional amount as demanded by the allotting authority consequent to re-fixation of price was held to be neither unfair nor unreasonable.

The present case is of an entirely different scenario and of different issues, pertaining to discrimination amongst the similarly placed persons, who had applied contemporaneously in the same category and in the same Housing Scheme. On the issues involved herein, the view taken by the majority members of the National Commission is a reasonably possible view of the matter; and we see no reason to consider interference under Article 136 of the Constitution of India.

Therefore, these petitions seeking special leave to appeal are dismissed.

All pending applications stand disposed of.

(SHRADDHA MISHRA)
SENIOR PERSONAL ASSISTANT

(RANJANA SHAILEY)
COURT MASTER (NSH)