

ITEM NO.6

COURT NO.3

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 10856/2016

BHUPINDER SINGH

Appellant(s)

VERSUS

UNITECH LTD. & ORS.

Respondent(s)

IA No. 28791/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 268511/2023 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 243666/2023 - CLARIFICATION/DIRECTION
IA No. 195495/2023 - CLARIFICATION/DIRECTION
IA No. 195481/2023 - CLARIFICATION/DIRECTION
IA No. 108721/2024 - CLARIFICATION/DIRECTION
IA No. 196027/2022 - INTERVENTION APPLICATION
IA No. 196020/2022 - INTERVENTION APPLICATION
IA No. 196012/2022 - INTERVENTION APPLICATION
IA No. 83191/2023 - INTERVENTION APPLICATION
IA No. 75969/2023 - INTERVENTION APPLICATION
IA No. 28819/2023 - INTERVENTION APPLICATION
IA No. 268510/2023 - INTERVENTION APPLICATION
IA No. 195494/2023 - INTERVENTION/IMPLEADMENT
IA No. 195479/2023 - INTERVENTION/IMPLEADMENT

Date : 19-03-2025 This matter was called on for hearing today.

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HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

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

I.A. Nos.196012/2022, 196020/2022, 196027/2022 & 75969/2023

1. These applications are at the instance of Suraj Miglani, Anupama Garg, Shree Garg and Sanjay Garg, who are claiming to be allottees of plots in Residential Project "The Willows" of Unitech located in Sectors 96, 97 and 98, Noida, Uttar Pradesh. It is claimed that they are apprehending the cancellation of their allotments, regardless of the fact that they have acquired a legally vested right in terms of the allotment made by Unitech.

2. On the other hand, the Government appointed Board of Directors of Unitech has taken a stand that no valid allotment was made in favour of the applicants. We are informed that one more applicant (Jaspreet Madan) has moved I.A. No.126921/2024 seeking a similar

relief. It emerges during the course of the hearing that following questions of fact would require determination:

(i) Whether any valid allotment was made by Unitech in favour of the applicants, if so, whether the allotment letter was issued by the authorized representative after following the prescribed process?

(ii) Whether any sale consideration or substantial part thereof has been paid by the applicants? If so, what was the mode of payment and to whom the payments were made? If not, what will be legal effect on the claimed allotments?

(iii) Whether the allotted plots actually exist at the site and are duly sanctioned in the residential project known as Unitech Golf and Country Club?

3. After hearing learned counsel for the parties briefly, we are of the view that the above-stated factual issues, or any other issue that may arise for consideration, can be effectively determined by Hon'ble Mr. Justice A.M. Sapre, former Judge of this Court, who has been entrusted the responsibility of facilitating this Court in resolving one or the other issues.

4. The applicants are, accordingly, permitted to approach Hon'ble Mr. Justice A.M. Sapre (Retd.) and handover copies of their applications along with all the relevant documents. Unitech may also submit its comments on each application and may produce the original records to enable Hon'ble Mr. Justice A.M. Sapre (Retd.) to form an opinion on case-to-case basis.

5. Unitech shall also furnish the details of other similar Interlocutory Applications, which are pending before us.

6. The Interlocutory Applications are, accordingly, disposed of.

I.A Nos.243666/2023 & 83191/2023

1. These applications have been moved on behalf of Resident Welfare Association (RWA) of the Unitech Golf and Country Club Residential Project, seeking a direction to grant approvals, execute sub-lease deeds, sanction building plans, charge stamp duty on the date of purchase and not to recover compensation being payable to the farmers.

2. It, however, seems that the genuineness of the allotment itself of some of the members of the RWA is being doubted by Unitech though principally it has no objection with respect to the prayers made in the applications. We, thus, do not express any opinion on the merits of the issues raised in these applications and deem it appropriate to refer these applications as well to Hon'ble Mr. Justice A.M. Sapre (Retd.) for his consideration, with the same liberty to the parties as has been granted in the previous set of applications.

3. The Interlocutory Applications are, accordingly, disposed of.

I.A. No. 195479/2023, I.A. No. 195481/2023, I.A. No. 195494/2023 and I.A. No. 195495/2023

1. The applicants - Monika Gupta, Saroj Bala and Sudhir Gupta claim to have been allotted Plot Nos. 008-009, Street No. 08, Main-00, "The Willows" at Unitech Golf and Country Club, Sectors 96, 97 and 98, Noida, Uttar Pradesh. Their allotments, however, have been cancelled by the Board of Unitech due to non-payment of the requisite sale consideration. It is the case of Unitech that all these applicants claim to have deposited the earnest money,

which was not even 20% of the total sale consideration. Whether these applicants have acquired any enforceable right *qua* the plots claimed to have been allotted to them, regardless of the quantum of payments made by them, is also largely a factual issue which can be effectively examined by Hon'ble Mr. Justice A.M. Sapre (Retd.). The applicants may approach Hon'ble Mr. Justice A.M. Sapre (Retd.) along with copies of these applications and other relevant records. Unitech will also produce its record to show that the earnest money, if any, deposited by these applicants did not qualify them to give them a valid allotment.

2. The applications stand disposed of in the above terms.

I.A.No. 28791/2023 and I.A. No. 28819/2023

1. The applicant - Ranjan Bakshi was allotted an apartment with international specifications. Later on, those specifications were converted to normal specifications and as a result thereto, the allotment price was reduced. In this manner, the applicant is statedly entitled to have a refund of about Rs.43 lakhs, which Unitech owes him.

2. The applicant, however, seeks for the allotment of another plot at the 2009 rate, on the basis of the Unitech policy in vogue at the relevant time.

3. The Unitech Board, on the other hand, contends that such an allotment is not feasible, especially at 2009 rates. Unitech instead has offered that the applicant can either revert to international specifications in the existing apartment or opt for refund of the excess amount at the time of possession.

4. The aforementioned claim of the applicant - Ranjan Bakshi

also, in our considered opinion, requires consideration by Hon'ble Mr. Justice A.M. Sapre (Retd.). Both the sides may, therefore, approach Hon'ble Mr. Justice A.M. Sapre (Retd.) for giving his valuable opinion on the applicant's claim.

5. The applications stand disposed of in the above terms.

I.A. No. 108721/2024

1. The applicant - Ashok Aggarwal is allottee of a flat/apartment, bearing No. Block B, Unit No. F-023 on First Floor, at Independent Floors, South City - II, Gurugram. As per the allotment made in the year 2010, the super area (booked area) of the flat/apartment is 1970 sq. ft. whereas according to Unitech, he has been actually given possession of an apartment measuring 1999 sq.ft. (revised area).

2. It seems that the applicant had earlier obtained some orders from the National Consumer Disputes Redressal Commission (NCDRC) seeking damages etc. against the erstwhile management of Unitech. He, now, seeks a direction, through this application, for execution of Conveyance Deed in respect of the above-stated property as well as payment of compensatory damages for delay in possession.

3. On the other hand, the Government appointed Unitech Board has taken a stand that the applicant is liable to pay the final dues based upon the actual measurement of the apartment allotted to him. In addition, the applicant is liable to bear the stamp duty charges on the execution of Conveyance Deed. In this regard, we have heard learned counsel for the parties.

4. Since Unitech has taken a categorical stand that the

applicant has been allotted an apartment of bigger size, and if he disputes such stand, he may apply to Unitech to carry out fresh measurements at the site in his presence. If it is found that the allotted apartment is bigger in size, than as per the allotment letter, the applicant shall be liable to pay the additional dues at the old rates without any interest thereupon. On doing so, the applicant shall be entitled to execution of Conveyance Deed for which he will have to bear the stamp duty charges.

5. The application stands disposed of in the above terms.

I.A.No. 268510/2023 and I.A. No. 268511/2023

1. No sooner than we were inclined to dismiss these applications, counsel for the applicant(s) seeks and is granted two weeks' time to have fresh instructions.

2. List on 24.04.2025.

I.A.No. 84255/2020, I.A. No. 9494/2022, I.A. No. 28098/2023, I.A. No. 50055/2023 and I.A. No. 6512/2021

Instead of 27.03.2025, list these I.As on 24.04.2025.

I.A. No. 54013/2025, I.A. No. 54018/2025 and I.A.No. 237540/2023

List on 24.04.2025.

(SATISH KUMAR YADAV)
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AR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR