

Shefali Varma vs Meenakshi Varma & Ors on 15 February, 2023

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1781/2014

SHEFALI VARMA

..... Plaintiff

Through: Mr.Jeevesh Nagrath, Ms.Poorva
Pant, Advs.

versus

MEENAKSHI VARMA & ORS

..... Defendants

Through: Mr.Akhil Sibal, Sr. Adv. with
Mr.Nikhil Chawla, Ms.Bahuli
Sharma, Mr.B.Shekhar,
Mr.Alok Prataksh, Advs.
Mr.Ashwani Kr. Sharma, Adv.
for applicant in & I.A. No.
15103/2022.
Ms.Preeti Taneja, Adv. for
applicant in remaining I.As.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
ORDER

% 15.02.2023

1. This application has been filed on behalf of Smt.Santosh Devi, who claims herself to be an allottee of the residential apartment bearing No. B3-1502, in Ardee City, Sector 52, Gurugram 122003, Haryana, praying for the following reliefs:

"(a) Direct the concerned defendants to allot possession of the residential apartment No.B3-

1502, Palm Groove Heights, Ardee City, Sector 52, Gurugram 122003, HR;

(b) Appoint a court observer in this case to examine regarding the left over payment in writing if any along with clarification of receipt of 3,00,000/- (Three lacs) also provide give physical peaceful possession in required good needful way."

2. There is a dispute with respect to the payment of Rs.3 Lakhs alleged to be given by the applicant in cash. The learned counsel for the applicant further submits that the handing over of possession of the apartment having been delayed for the reasons not attributable to the applicant, the applicant is also entitled to the payment of delay charges. He submits that the applicant is also not liable to pay

additional charges as are being demanded. He submits that, in fact, the applicant has over paid and is entitled to claim refund.

3. It is also admitted that the applicant has filed a consumer complaint, being C-907/16, which is pending adjudication before the learned State Consumer Forum. By an order dated 22.09.2020 passed in the said complaint, the applicant was directed to seek clarification from this Court.

4. I have considered the submissions made.

5. This Court in the present proceedings cannot adjudicate upon on the claims of the applicant. It is, however, clarified that the learned State Consumer Forum may proceed with the consumer complaint filed by the applicant and adjudicate the same on its own merit. The execution of the said consumer complaint may however be made subject to the permission being taken from this Court.

6. The present application is disposed of with the above clarification.

7. This is an application filed under Section 151 of the Code of Civil Procedure, 1908, whereby the applicants seek modification of the order dated 29.05.2014 passed by this Court and grant of permission to M/S ARDEE Infrastructure Private Ltd, defendant no.4 herein, to hand over the physical possession and execute the title/conveyance deed in favour of the applicant in respect of the plot bearing No.C-9/8, measuring 300 sq. yards in Sector 52, Ardee City, Gurugram developed by the defendant no.4.

8. On the last date of hearing, that is 17.01.2023, the learned counsel for the parties sought for time to verify the original documents of the applicant.

9. The documents in respect of the aforesaid captioned applicant have been verified by both, the learned counsels for the plaintiff and the defendants, and they have no objections if the possession of the said plot as prayed for is handed over to the allottees/LRs of the allottee within a period of fifteen days of the balance payment, if any, being paid to the defendant no.4. On completion of the formalities, the conveyance deeds will be executed thereafter, subject to the permission of the local authorities, if required.

10. Accordingly, the order dated 29.05.2014 stands modified in the above terms and the aforesaid application stands disposed of.

11. The learned counsel for the applicants states that they do not wish to press the present application.

12. The application is accordingly dismissed as not pressed. I.A. NO 3047/2023 and 3051/2023 (EXEMPTION)

13. Allowed, subject to all just exceptions. I.A. No. 3046/2023 & I.A. No. 3050/2023

14. It is agreed between the parties that the learned counsel for the applicant shall meet the learned counsels for the plaintiff and the defendants on 21.02.2023 at 3.00 PM at the office of Mr.Ashok Chhabra, Advocate, at A-104, Defence Colony, Delhi, along with all original documents for the purposes of verification.

15. List on 2nd March, 2023.

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16. The learned counsel for the plaintiff submits that the plaintiff, defendant nos.1 and 2, along with the Companies, have executed a Memorandum of Family Settlement, the signed copy whereof is lying with one Mr.Pawan Jindal, resident of 704, Sector-15, Part-II, Gurugram (Mob. No.9891599051), in a sealed cover. He submits that the plaintiff, however, does not have a copy of the same. He further submits that the plaintiff accepts the said Family Settlement as binding on the parties.

17. The learned senior counsel appearing for the defendants request for time to seek instructions on the above.

18. List on 2nd March, 2023.

19. Dasti.

NAVIN CHAWLA, J FEBRUARY 15, 2023/ARYA