

ITEM NO.24 Court 5 (Video Conferencing) SECTION X

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

Writ Petition(s)(Civil) No(s).1390/2020

SHELLY LAL & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date : 07-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Mr. Shikhil Suri, Adv.
 Mr. Shiv Kumar Suri, AOR
 Ms. Madhu Suri, Adv.
 Ms. Shilpa Saini, Adv.
 Ms. Nikita Thapar, Adv.
 Ms. Vinishma Kaul, Adv.

For Respondent(s)

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

- 1 A proposed construction project at NOIDA which did not take off from the drawing board has given rise to proceedings under Article 32 of the Constitution by twenty five purchasers of commercial premises.
- 2 Invoking the jurisdiction under Article 32, the petitioners have sought, *inter alia*, the following directions:
 - (i) A writ, order or direction to the respondents to protect the interests and investments of customers/buyers in the larger public interest;

- (ii) A writ, order or direction for the revival of the project failing which the amounts invested by the petitioners be returned with interest at the rate of 18% per annum; and
 - (iii) A court-monitored probe.
- 3 Having considered the cause which has been espoused by the petitioners through their counsel, Mr Shikhil Suri, we are of the view that the exercise of the jurisdiction under Article 32 of the Constitution would not be warranted in the facts of the present case.
- 4 Essentially, the writ petition requires the Court to step into the construction project and to ensure that it is duly completed. This would be beyond the remit and competence of the Court under Article 32. Managing a construction project is not within the jurisdiction of the court.
- 5. Several provisions of law confer statutory rights on purchasers of real estate and invest them with remedies enforceable at law. These include the Consumer Protection Act 1986, the Real Estate (Regulation and Development) Act 2016 and the Insolvency and Bankruptcy Code 2016. Parliament has enacted a statutory regime to protect the rights of purchasers of real estate and created fora which are entrusted with decision making authority.
- 6. A decision of a public authority which is entrusted with a public duty is amenable to judicial review. But it is quite another hypothesis to postulate that the decision making authority should be taken over by the court. The latter is impermissible. It would be inappropriate for this Court to assume the jurisdiction to supervise the due completion of a construction project especially in facts such as those presented in the present case. This will inevitably draw the court into the day to day supervision of the project, including financing, permissions and execution –

something which lies beyond the ken of judicial review and the competence of the court. The court must confine itself to its core competencies which consist in the adjudication of disputes amenable to the application of legal standards. We, consequently, leave it open to the petitioners to pursue the remedies available in law.

5 The writ petition is disposed of, subject to the aforesaid liberty.

6 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER