



\$~C-2 (14.04.2023)

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

+ **CO.PET. 668/2014**

**ABHINANDAN KUMAR JAIN**

..... Petitioner

Through: Mr. N. Kiran Kash, Proxy Counsel.  
Mr. Nikhilesh Kumar, Main Counsel.

versus

**MVL LIMITED**

..... Respondent

Through:

Mr. Paramvir Singh Narang and Mr. Manas Tripathi, Advocates for Applicants in CO.APPLs. 1106/2018 & 225/2023.

Mr. Seemant K. Garg and Mr. Rachit Devgun, Advocates for SEBI in Co. Appl. 536/2020

Ms. Rashi Bansal, Advocate for Applicant.

Mr. Deepak Kumar, Advocate for applicant in Co. Appl. 1039/2019.

Ms. Shilpa Ohri, Advocate along with Mr. Gaganmeet Singh Sachdeva, Advocate for applicant in CA 219/2022.

Mr. Prakhar Bhatnagar & Deeptanshu Chandra, Advocates for applicant in CA 193/2023.

Mr. Vivek Sibal, Senior Advocate for Ex-Management with Mr. Abhay Pratap Singh and Mr. Mohit Kumawat, Advocates.

Mr. Kunal Sharma and Mr. Shubhendu Bhattacharyya, Advocates for OL.

Mr. Ankit Kumar, Mr. Niraj Sinha and Mr. Swetank Shantanu, Advocates for



Applicant in CO.APPL. 647/2022.  
Mr. S.K. Kapoor, Investor (in-Person).  
Mr. Prakhar Bhatnagar & Mr.  
Deeptanshu Chandra, Advocates for  
Applicant.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

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**17.04.2023**

*The matter has been taken up today as 14<sup>th</sup> April, 2023 was declared as a holiday of the Court pursuant to an Office Order bearing No. No. 1114/G-4/Genl.-IIDHC dated 12<sup>th</sup> April, 2023.*

**CO. APPL. 225/2023** (*seeking clarification of order dated 17<sup>th</sup> March, 2023*)

1. The Applicants are aggrieved by Respondent's communications dated 04<sup>th</sup> April, 2023 which raise the demand of ₹10,32,384/-, towards outstanding dues as a condition for handing over of possession and execution of title documents for the transfer of flats/apartments.
2. Counsel for Applicants states that although the amount claimed is not due, but in order to bring quietus to the dispute, Applicants would be willing to pay the aforementioned outstanding amount if Respondent is agreeable to complete the transfer within a period of two weeks from date of payment.
3. Mr. Vivek Sibal, Senior Counsel representing Respondent, confirms that the needful will be done within two weeks of payment of the outstanding amount.
4. In view of the above, present application is disposed of with the following directions:
  - i) Applicants shall pay the aforementioned amount within a period of ten



days from today.

ii) On receipt of afore-said payment, the title documents and the possession of the flats in question shall be handed over to Applicants within a period of two weeks thereafter.

5. Disposed of.

6. Per office noting, court fee has not been paid. Let the same be done within a period of three days from today.

**CO.APPL. 215/2022 (on behalf of Mr. Prem Adip Rishi/ Ex-Managing Director, u/Rule 9 of the Companies (Court) Rules, 1959)**

7. Pursuant to order dated 17<sup>th</sup> March, 2023, Respondent has prepared an updated list indicating the status of the flats at MVL Coral and IndiHomes Tower B and C. The same be placed on record.

8. As per Mr. Sibal, construction at MVL Coral is complete and possession of units therein can be handed over. Among the 53 flats in the list, the Court has issued afore-noted directions for handing over possession of 4 units. For the remaining 49 units, Mr. Sibal, on instructions, states that letters have been issued to respective allottees on 04<sup>th</sup> April, 2023. In respect of 11 flats, there are no dues and this has been intimated to the owners. As regards remaining units, Mr. Sibal states that replies have been received from some of the allottees and the process for handing over of possession and execution of the title documents, is under way.

9. As regards IndiHomes Tower B and C, Mr. Sibal states that 62 units are ready in Tower B and 68 units in Tower C. The 'Fire NOC' and 'Environmental Clearance' is in place, and a temporary power connection is also available. He states that the Respondent has already applied for occupancy certificate and it will take another three to four months' time to



receive the same. However, the completed flats can be transferred to allottees while awaiting the occupancy certificate.

10. In the opinion of the Court, awaiting the occupancy certificate other formalities can be completed. It is thus directed that Respondent shall issue an intimation letter to the allottees at IndiHomes Tower B and C indicating the outstanding dues, if any. Said letter should also indicate that the amounts, if deposited, will be retained in a designated no-lien account and payments shall not be appropriated by Respondent, without the leave of this Court. This would ensure that the apartments are ready in all respects and there is no further delay. The allottees who are desirous of executing the transfer documents can proceed to do so. As and when the occupancy certificate is issued, the Court shall issue suitable directions for release of the amounts deposited in the no-lien account.

11. List before the Court on 12<sup>th</sup> July, 2023.

**CO.APPL. 219/2022 (for directions),**

**CO.APPL. 993/2017 (u/Rule 9 of Company (Court) Rules, 1959 r/w Order I Rule 10(2), CPC, 1908) and**

**CO.APPL. 193/2023 (seeking recall of order dated 30<sup>th</sup> March, 2022 to the extent of dismissal of CA No. 1062/2019)**

12. The above-noted applications pertain to Respondent's commercial project viz. India Business Centre, Gurugram, which is yet to be completed. Mr. Sibal states that the said commercial project was sold to buyers under a scheme which offered an assured return [hereinafter "***Scheme***"].

13. Court is informed that Whole-Time Member of Securities and Exchange Board of India [hereinafter "***SEBI***"] in exercise of powers under Section 11(1), 11B and 11(4) of the SEBI Act, 1992, vide order 19<sup>th</sup>



December, 2014, found the aforesaid Scheme to be in nature of a Collective Investment Scheme (CIS) and issued directions for winding up and refund of the monies to buyers. Challenge to the said order by way of Appeal No. 157/2015 was rejected by the Securities Appellate Tribunal, Mumbai [hereinafter “SAT “] on 03<sup>rd</sup> January, 2023.

14. The aforesaid order of SAT is now assailed before the Supreme Court in Civil Appeal No(s). 1828/2023 and connected matters. Notice has been issued and the matter is pending adjudication, although there is no stay against the SAT order.

15. Applicant in CO.APPL. 993/2017, who is present in person, states that he is not interested in refund of the amount paid by him to the Respondent towards a unit in the said commercial project. Similar sentiments are shared by counsel for Applicants in CO.APPL. in 219/2022 and CO.APPL. 193/223.

16. Considering that the Supreme Court is presently seized of the matter, the hearing in the above-captioned applications is deferred to 12<sup>th</sup> July, 2023.

**CO.APPL. 116/2023 (seeking directions)**

**CO.APPL. 635/2020 and CO.APPL. 650/2020 (for directions)**

**CO.APPL. 1106/2018 (u/Rule 6 & 9 of the Company Court Rules, 1959),**

**CO.APPL. 25/2019 and CO.APPL. 26/2019 (u/Section 446 of the Companies Act, 1956)**

17. Counsel for Applicant in CO.APPL. 116/2023 states that even though a sub-lease deed has already been registered in favour of the Applicant, Respondent has still raised a claim for outstanding dues. In light of the same, request is made for a meeting to be fixed before the Official Liquidator so that the matter could be resolved. Similar requests are made by Applicants in CO.APPL. 635/2020, CO.APPL. 650/2020, CO.APPL. 1106/2018,



CO.APPL. 25/2019 and CO.APPL. 26/2019. Mr. Sibal is agreeable to the same, and accordingly, it is directed that the parties shall appear before the OL on 1<sup>st</sup> May, 2023 at 11.00AM for reconciliation of dues.

18. List before the Court on 12<sup>th</sup> July, 2023.

**SANJEEV NARULA, J**

**APRIL 17, 2023**

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