

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **18.04.2024** THROUGH VIDEO CONFERENCE

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**PRESENT:** JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT  
HON'BLE SHRI. SAMEER KAKAR, MEMBER (TECHNICAL)

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**IN THE MATTER OF** : Rakesh P Seth  
Vs  
Sabari Realtors Pvt Ltd

**MAIN PETITION NUMBER** : IBA/471/2019

**(IA/MA) APPLICATION NUMBERS**

IA/250(CHE)/2022; IA/252(CHE)/2022; Inv.P/4(CHE)/2022 IN IA/250(CHE)/2022  
IA/840(CHE)/2022; IA/732(CHE)2022; IA/1158(CHE)/2022

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**ORDER**

Ld. Counsel Mr. B.Dhanaraj is present for the homebuyers.

Ld. Counsel Mr. Kaushik N Sharma is present.

Ld. Counsel Mr. Rahul Balaji is present.

Ld. Resolution Professional Mr. Amarendran is present.

1. Affidavit is filed vide SR. No. 148 by the Ld. Counsel Mr. B.Dhanaraj and the same is taken on record and for consideration on merits at the time of hearing.

2. This case is heard by Special Bench. On 22.11.2023, we have passed the following order.

*“RP is represented by the Ld. Counsel Ms. Krithika. Respondent is represented by the Ld. Counsel Mr.B.Dhanaraj.*

*2. It is stated in the Application that in the year 2017 and 2018, the Corporate Debtor handed over the development rights of the property to one M/s.Pioneer Homes under a Memorandum of Understanding dated 02.06.2018 and the said M/s. Pioneer Homes took over the project and asked the homebuyers to pay the pending dues to them. Pursuant to the same, many homebuyers have paid the monies demanded by M/s. Pioneer Homes.*

*3. It is stated that although it is mentioned in the Information Memorandum that the above MoU has been cancelled, the same was not informed to the homebuyers.*

4. Further it is stated that in a case filed by one of the homebuyers before TNRERA, the said Tribunal has held M/s.Pioneer Homes as liable and directed to complete the construction and hand over possession of the flats to the homebuyers. Further, TNRERA has also made a categorical finding that Pioneer Homes had taken over the management of Corporate Debtor.

5. In view of the averments as stated above, the RP is directed to clarify \_

(i) Whether Pioneer Homes have complied with the order of TNRERA.

(ii) What steps have been taken by the RP to persuade M/s. Pioneer Homes to complete the construction and handover the possession of the flats to the homebuyers.

(iii) Whether the RP has filed any application against M/s. Pioneer homes to implement the order of TNRERA before this Tribunal or any other forum.

6. The Applicant/RP is given ten (10) days time to file the reply in the form of additional affidavit.

7. In view of the clarifications as sought above, all the applications stand **de-reserved**.

8. List the matter for hearing on **21.12.2023** before the same Bench after taking administrative orders.”

3. We have de-reserved the following IA.No. IA/250(CHE)/2022; IA/252(CHE)/2022; Inv.P/4(CHE)/2022 IN IA/250(CHE)/2022 and IA/840(CHE)/2022 in IBA/471/2019 due to developments that took place from time to time on the basis of subsequent events.

4. Thereafter, the matter is heard by the Special Bench from time to time at the request of the parties and on many occasions there were requests for mediated settlement. In this case the homebuyers are trying to resolve many issues.

5. On 21.12.2023 we have passed the following order.

“RP is represented by Ld. Counsel Mr. Kaushik N Sharma.

*In Inv.P/4(CHE)/2022 and IA/840(CHE)/2022, Applicant(s) is represented by Ld. Counsel Mr. B.Dhanaraj.*

*Pursuant to the clarification sought by this Tribunal vide order dated 22.11.2023, RP has filed a Common reply affidavit dated 11.12.2023.*

*Ld. Counsel Mr. B.Dhanaraj seeks time to file response to the said reply affidavit dated 11.12.2023. Ld. Counsel also seeks time to file a memo seeking rectification of this Tribunal order dated 19.10.2022.*

*Since there is some internet connectivity issue in Ahmedabad Bench, Hon'ble Member (Technical) could not join through video conferencing.*

*List the applications on 12.01.2024 for hearing.”*

6. On 12.01.2024 after hearing the parties and the counsel, we have passed the following order.

*“Ld. Counsel Shri. B. Dhanaraj for the home buyers.*

*Ld. Counsel Shri. Ramana Kumar is present for the Resolution Applicant.*

*Ld. Counsel Shri. Kaushik N Sharma is present.*

*Ld. Counsel Shri. Rahul Balaji is present.*

*Ld. Counsel Shri. B. Dhanaraj stated that in view of the stalemate in the issue he will put across a suggestion after holding a meeting of the home buyers association as to whether they will be inclined to take up the project in a process akin to Reverse Insolvency, as in the case of Flat Buyer's Association Winter Hills – 77, Gurgaon vs Umang Realtech Private Limited, Company Appeal (AT)(INS)No. 926 of 2019 (NCLAT).*

*Ld. Counsel Mr. Dhanaraj undertakes to file Affidavit to the above wherein the home buyers will suggest modalities for resolving the issue. A meeting with the Home Buyers Association will be held and it will include all stakeholders. It was suggested that the earlier term of arrangement will also be reviewed so that all parties are fairly benefitted by such scheme of arrangement. This time it is informed that all home buyers will have to take a lead to resolve the issue.*

*We accede to the request of the home buyers as suggested above. RP to enable a proper meeting of all stakeholders.*

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*At request of the parties, list the matter on 22.03.2024.”*

It is in this background that the affidavit has been filed and recorded at Para-1 above.

7. In the meanwhile, the homebuyers have filed IA/732(Che)/2022 and IA/1158(Che)/2022 for reliefs. It needs further hearing of all parties on merits. There is also a suggestion by home buyers to resolve the issue as per the statement of Shri. Dhanaraj, Ld. Counsel for homebuyers as recorded earlier.

8. Further, the Hon'ble Member (Technical) is holding court from Ahmedabad Bench. In this backdrop, it will be appropriate that all the matters be heard by a Regular Bench at Chennai on regular basis instead of Special Bench comprising of Hon'ble President and Hon'ble Member (Technical) Shri. Sameer Kakar (Ahmedabad). This will serve the cause of justice to parties.

9. Accordingly, the Registry is directed to place this matter before the Hon'ble President for getting appropriate orders for listing this matter before the Regular Bench in Chennai.

- List thereafter.

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**(SAMEER KAKAR)**  
**MEMBER (TECHNICAL)**

MS

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**(JUSTICE RAMALINGAM SUDHAKAR)**  
**(PRESIDENT)**