

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICEHIMA KOHLI
AND
THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.11585 of 2021

Date: 01.06.2021

BETWEEN

V.V.L. Sujatha.

... PETITIONER

AND

State of Telangana,
Rep. by its Principal Secretary to Govt.,
Consumer Affairs, Food & Civil Supplied Department,
Civil Supplies Bhavan, Erramanjil,
Somajiguda, Hyderabad and others.

...RESPONDENTS

Counsel for the Petitioner : Chakaragalla Gopal and
Mr. J. Venkataram Narasimha Reddy

Counsel for the Respondent No.4:Mr. Mamilla Ashwin Reddy

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice B.Vijaysen Reddy)

This writ petition has been filed to declare the action of the State Consumer Redressal Commission, Hyderabad (State Commission) in entertaining F.A.No.144 of 2021 and passing an order dated 25.03.2021 on the interim application (F.A.I.A.No.295 of 2021) moved in F.A.No.144 of 2021, thereby staying the conviction order passed against the respondent No.4/Developer by the District Consumer Redressal Commission, Hyderabad III (District Forum) in EA.No.38 of 2013 dated 09.03.2021 as illegal, arbitrary and unconstitutional and consequently to direct the District Forum to enforce the order passed in E.A.No.38 of 2013 dated 09.03.2021, in accordance with law.

2. The brief facts of the case are as under:-

(a) The petitioner is the owner of property admeasuring 876 sq. yards bearing Municipal No.5-8-29, situated at Fathe Sultan Lane, Nampally, Hyderabad (hereinafter referred to as 'schedule property'). The petitioner and the respondent No.4/Developer entered into a Development Agreement dated 01.06.2003 for redeveloping the aforesaid property and building flats thereon. The parties had agreed that the petitioner shall receive a share of 45% and the respondent No.4/Developer shall receive a share of 55% of the built up flats. Alleging that there was a breach of the terms and conditions of the Development Agreement and failure on the part of the respondent

No.4/Developer in meeting his commitments, the petitioner filed a complaint before the District Forum, registered as C.C.No.1026 of 2007. The said petition was allowed on 09.12.2009 and the respondent No.4/Developer was directed to complete the construction and handover to the petitioner, her share of the flats.

(b) The order of the District Forum was challenged by the respondent No.4/Developer in F.A.No.208 of 2010 before the State Commission. A separate appeal, F.A.No.316 of 2010 was also filed by the petitioner, not being satisfied with the award passed by the District Forum and seeking damages before the State Commission. Both the appeals were disposed of by a common order dated 29.04.2011, with a direction to the respondent No.4/Developer to complete the construction and deliver 45% share of the built up area to the petitioner within a period of four months. Respondent No.4/Developer carried the matter in appeal to the National Consumer Disputes Redressal Commission (National Commission), which is stated to have been dismissed. The matter was further carried to the Supreme Court in SLP, which also came to be dismissed. Thus, the order dated 09.12.2009 passed by the District Forum and affirmed by the State Commission in the two appeals, F.A.Nos.208 and 316 of 2010, attained finality. Thereafter, the petitioner filed E.A.No.38 of 2013 before the District Forum for execution of the order dated 29.04.2011.

(c) It is the case of the petitioner that the respondent No.4/Developer evaded service of notices in E.A.No.38 of 2013 and

the matter underwent several adjournments. Though NBW's were issued against the respondent No.4/Developer, they could not be executed. The petitioner was constrained to file W.P.No.29718 of 2014 for directions to the police to execute the NBW against the respondent No.4/Developer in accordance with the directions of the District Forum issued in E.A.No.38 of 2013. However, during the pendency of the said writ petition, since there was an inordinate delay in the disposal of the E.A, the petitioner was compelled to file another writ petition, registered as W.P.No.36528 of 2015, for an early disposal of E.A.No.38 of 2013. Vide order dated 15.12.2015, the High Court directed the District Forum to pass final orders in E.A.No.38 of 2013 as expeditiously as possible and preferably in two months. Eventually, E.A.No.38 of 2013 was allowed on 19.07.2017.

(d) Respondent No.4/Developer then proceeded to file F.A.No.278 of 2017 under Section 27A of the Consumer Protection Act (for short 'the Act') before the State Commission, which was dismissed vide order dated 07.11.2017, confirming the conviction order dated 19.07.2017 passed by the District Forum in E.A.No.38 of 2013. Respondent No.4/Developer challenged the order of the State Commission dated 07.11.2017, before the National Commission by way of a revision petition, registered as R.P.No.3715 of 2017, which was dismissed as not maintainable on 25.01.2021, in the light of the decision of the Supreme Court in Karnataka Housing Board v. K.A.Nagamani, reported as (2019) 6 SCC 424, wherein it has been

held that no Revision Petition under Section 21(6) of the Act is maintainable against an order passed on an appeal preferred under Section 27A of the Act in execution proceedings.

(e) Having exhausted all the remedies available to him in law, both in the original proceedings and the execution proceedings, respondent No.4/Developer instituted yet another fresh proceeding by filing a miscellaneous application, I.A.No.29 of 2021 under Section 151 CPC, in the disposed of E.A.No.38 of 2013 before the District Forum for acquittal. Vide order dated 09.03.2021, the District Forum dismissed I.A.No.29 of 2021 and issued NBW's against the respondent No.4/Developer with the following observations:

“The Petitioner misconstruing the above orders of the Hon’ble National Commission in Revision Petition No.3715/2017, approached this Commission and filed this petition. The Commission having discharged its function u/s. 27 of the Consumer Protection Act, by convicting the petitioner for non-compliance of direction No.2 of the order dated 29/4/2011 in F.A.No.208/2010 has become functus officio. As the Hon’ble State Commission also by its order dated:07/11/2017 in F.A.No.278/2017 confirmed the conviction imposed by this Commission on the petitioner, the order dated: 19/7/2017 in E.A.No.38/2013 had merged in the order of the State Commission in F.A.No.278/2017 by invocation of the Doctrine of Merger as held in Kunhayammed & Others v/s State of Kerala & another’s 2000 (6) SCC 359. In view of the above discussion there is therefore nothing that can be done in the matter of conviction of

the petitioner U/s. 27 of the Consumer Protection Act, imposed by this Commission in E.A.No.38/2013. This petition is therefore not maintainable and is liable to be dismissed. Accordingly this petition is dismissed.”

(f) Challenging the aforesaid order of the District Forum passed in I.A.No.29 of 2021, F.A.No.144 of 2021 was filed by the respondent No.4/Developer before the State Commission on 24.03.2021. The said appeal was admitted on 25.03.201 and stay of all further proceedings in the execution proceedings was granted in I.A.No.295 of 2021 filed along with F.A.No.144 of 2021. The relevant portion of the impugned order dated 25.03.2021, passed by the State Commission reads as follows:

“3. Written submissions filed by Respondent. The appeal that is preferred is the statutory appeal as provided U/s. 73 of C.P.Act, 2019 which corresponds to Section 27-A of C.P.Act, 1986. As per the provisions of Section 24-A of C.P.Act, 1986 which corresponds to Section 68 of C.P.Act, 2019, any order of the District Forum shall be come final only if no appeal is preferred. It is laid down by High Court in a decision in Writ Petition No.30234 of 2017 reported in Ms.Raghavendra Associates and another V. District Consumer Redressal Forum-I, Hyderabad and another, that once appeal has been preferred, no execution proceedings can continue till the disposal of the appeal. Therefore, there shall be stay of all further proceedings pursuant to the order impugned in the present appeal. For enquiry, call on 29.04.2021.”

(g) It has also been brought to the notice of this Court that the petitioner had filed a Review Petition, I.A.No.379 of 2021 in F.A.No.144 of 2021 under Section 50 of the Act of 2019. However, the same was dismissed vide docket order dated 25.03.2021.

3. Learned counsel for the petitioner contends that once F.A.No.278 of 2013 filed under Section 27A of the Consumer Protection Act, 1986 was dismissed, confirming the conviction order, there was no question of the respondent No.4/Developer yet again filing F.A.No.144 of 2021 against the conviction order passed by the District Forum under Section 73 of the Consumer Protection Act, 2019. The respondent No.4/Developer is thus estopped from filing an appeal against his conviction order under Section 73 of the Act of 2019 and that State Commission ought not to have entertained F.A.No.144 of 2021, muchless stay all further proceedings.

4. To substantiate his argument, learned counsel has relied upon the judgment of the Supreme Court in Neena Aneja v. Jai Prakash Associates Limited, reported as **2021 SCC Online SC 225**. He has further contended that the respondent No.4/Developer is depriving the petitioner of much needed justice and is obstructing her from enjoying the benefits of the award passed in her favour by the District Forum, that was confirmed upto the Supreme Court. It has been argued that the application filed by the respondent No.4/Developer before the District Forum under Section 151 CPC, is nothing but a camouflage to

gain wrongful entry on the file of disposed of E.A.No.38 of 2013, that too after having exhausted all the available legal remedies against the order of conviction passed against him for non-compliance of the order dated 09.12.2009, passed by the District Forum which has attained finality.

5. The petitioner is invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India on the ground that the impugned order is in gross violation of the provisions of law and Articles 14, 21 and 300A of the Constitution of India and has pleaded that the respondent No.4/Developer is indulging in illegal misadventures and filing misconceived applications and appeals by misrepresentation of facts which are being erroneously entertained. It has been asserted that the judgment of this Court in WP.No.30234 of 2017, based on which the impugned interim order has been passed, has no application to the facts of the instant case and the appeal is a gross abuse of the process of law.

6. The learned counsel for the caveator/respondent No.4 submitted that his client has complied with the interim directions issued by the National Commission vide order dated 09.10.2018 by delivering seven flats to the petitioner which constitute 45% of the built up area share. In effect, the order of the District Forum dated 09.12.2009 in C.C.No.1026 of 2007 as modified by the order of the State Commission in FA.No.208 of 2010 dated 29.04.2011 has been

implemented and thus the conviction order has to be recalled. The District Forum is having inherent jurisdiction to set aside the conviction order since the petitioner has been delivered 45% of his built up area share. The dismissal order of the District Forum dated 09.03.2021 is perverse and violative of Article 20(2) of the Constitution of India. The appeal, FA.No.144 of 2021, is thus maintainable under Section 73 of the C.P. Act, 2019. The interim order in IA.No.295 of 2021 is passed by the State Commission in exercise of the jurisdiction under Section 38(8) of the C.P. Act, 2019 read with Section 151 CPC.

7. We have heard Mr. J. Venkatram Narasimha Reddy, learned counsel for the petitioner and Mr. M. Ashwin Reddy, learned counsel for the caveator/respondent No.4 and perused the record.

8. As discussed above, the award dated 09.12.2009 passed in the original proceedings in C.C.No.1026 of 2007, was confirmed right upto the Supreme Court. In the second round of the litigation, the conviction order dated 19.07.2017 passed by the District Forum against the respondent No.4/Developer in E.A.No.38 of 2013, also attained finality. Thus, the original proceedings and the execution proceedings stood concluded. After a gap of four years, I.A.No.29 of 2021 was filed by the respondent No.4/Developer under Section 151 CPC for acquittal in E.A.No.38 of 2013, arising from C.C.No.1026 of 2007. The point is whether the conviction order passed by the District

Forum in E.A.No.38 of 2013 having attained finality upto the National Commission (albeit the revision petition was rejected on the ground of maintainability), could such an application invoking the provisions of Section 151 of the CPC be entertained, that too in a disposed of petition?

9. In the light of the above sequence of events, the following points arise for consideration:-

1. Whether another round of proceedings could have been instituted by the respondent No.4/Developer before the District Forum, by invoking Section 151 of the CPC, for acquitting him in E.A.No.38 of 2013, which stood disposed of on 19.07.2017?

2. Whether the State Commission could have entertained an appeal purportedly filed under Section 73 of the Act of 2019 against the order of the District Forum, dismissing the above application filed by the respondent No.4/Developer?

10. Before answering the questions framed above, we may briefly dwell on the aspect of the maintainability of the present petition. Ordinarily, this Court, while exercising the jurisdiction under Article 226 of the Constitution of India, may not entertain a petition for issuance of a writ of mandamus or certiorari, if there is an alternate remedy available under the statute. However, when administrative authorities, judicial forums or quasi-judicial authorities act in excess of the jurisdiction vested in them or act without any jurisdiction, this

Court is not precluded from exercising its discretion in favour of an aggrieved party to prevent abuse of the process of law, undo patent illegality, intervene where the proceeding are wholly without jurisdiction or the orders passed are grossly arbitrary.

11. In the above context, we may usefully cite Whirlpool Corporation v. the Registrar of Trademarks, reported as (1998) 8 SCC 1, where the Supreme Court has held as follows:

*“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. **But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.** There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”*

(emphasis supplied)

12. In Maharashtra Chess Association v. Union of India, reported as (2020) 13 SCC 285, the Supreme Court held as under:

“11. Article 226 (1) of the Constitution confers on High Courts the power to issue writs, and consequently, the jurisdiction to entertain actions for the issuance of writs.⁴ The text of Article 226(1) provides that a High Court may issue writs for the enforcement of the fundamental rights in Part III of the Constitution, or "for any other purpose". A citizen may seek out the writ jurisdiction of the High Court not only in cases where her fundamental right may be infringed, but a much wider array of situations. Lord Coke, commenting on the use of writs by courts in England stated:

The Court of King's Bench hath not only the authority to correct errors in judicial proceedings, but other errors and misdemeanours [...] tending to the breach of peace, or oppression of the subjects, or raising of faction, controversy, debate or any other manner of misgovernment; so that no wrong or injury, public or private, can be done, but that this shall be reformed or punished by due course of law....

*Echoing the sentiments of Lord Coke, this Court in **Uttar Pradesh State Sugar Corporation Limited v. Kamal Swaroop Tondon** (2008) 2 SCC 41 observed that:*

35... It is well settled that the jurisdiction of the High Court Under Article 226 of the Constitution is equitable and discretionary. The power under that Article can be exercised by the High Court "to reach injustice wherever it is found."

12. The role of the High Court under the Constitution is crucial to ensuring the Rule of law throughout its

*territorial jurisdiction. In order to achieve these transcendental goals, the powers of the High Court under its writ jurisdiction are necessarily broad. They are conferred in aid of justice. This Court has repeatedly held that no limitation can be placed on the powers of the High Court in exercise of its writ jurisdiction. In **A.V. Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhvani** (1962) 1 SCR 753 a Constitution Bench of this Court held that the nature of power exercised by the High Court under its writ jurisdiction is inherently dependent on the threat to the Rule of law arising in the case before it:*

10... We need only add that the broad lines of the general principles on which the court should act having been clearly laid down, their application to the facts of each particular case must necessarily be dependent on a variety of individual facts which must govern the proper exercise of the discretion of the Court, and that in a matter which is thus pre-eminently one of discretion, it is not possible or even if it were, it would not be desirable to lay down inflexible Rules which should be applied with rigidity in every case which comes up before the court.

The powers of the High Court in exercise of its writ jurisdiction cannot be circumscribed by strict legal principles so as to hobble the High Court in fulfilling its mandate to uphold the Rule of law.

13. While the powers the High Court may exercise under its writ jurisdiction are not subject to strict legal

principles, two clear principles emerge with respect to when a High Court's writ jurisdiction may be engaged. First, the decision of the High Court to entertain or not entertain a particular action under its writ jurisdiction is fundamentally discretionary. Secondly, limitations placed on the court's decision to exercise or refuse to exercise its writ jurisdiction are self-imposed. It is a well settled principle that the writ jurisdiction of a High Court cannot be completely excluded by statute. If a High Court is tasked with being the final recourse to upholding the Rule of law within its territorial jurisdiction, it must necessarily have the power to examine any case before it and make a determination of whether or not its writ jurisdiction is engaged. Judicial review Under Article 226 is an intrinsic feature of the basic structure of the Constitution.

*14. These principles are set out in the decisions of this Court in numerous cases and we need only mention a few to demonstrate the consistent manner in which they have been re-iterated. In **State of Uttar Pradesh v. Indian Hume Pipe Co. Limited** (1977) 2 SCC 724 this Court observed that the High Court's decision to exercise its writ jurisdiction is essentially discretionary:*

4...It is always a matter of discretion with the Court and if the discretion has been exercised by the High Court not unreasonably, or perversely, it is the settled practice of this Court not to interfere with the exercise of discretion by the High Court.

...

*19. This understanding has been laid down in several decisions of this Court. In **Uttar Pradesh State Spinning Co. Limited v. R.S. Pandey** (2005) 8 SCC 264 this Court held:*

11. Except for a period when Article 226 was amended by the Constitution (Forty-Second Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a Rule of self imposed limitation. It is essentially a Rule of policy, convenience and discretion and never a Rule of law. Despite the existence of an alternative remedy it is within the jurisdiction or discretion of the High Court to grant relief Under Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy.”

(emphasis supplied)

13. As can be gleaned from the above, the self imposed restriction of the High Court in exercising jurisdiction under Article 226 of the Constitution of India on the ground of availability of an alternate remedy, is founded on the principles of propriety, equity, consistency and for enforcing rule of law. However, such a restriction shall not deter this Court from invoking its extraordinary jurisdiction to advance the cause of justice and to do substantial justice to the parties concerned.

14. In the instant case, the petitioner has approached this court under Article 226 of the Constitution of India with a grievance that by entertaining the appeal preferred by the respondent No.4/Developer, the State Commission has acted wholly without jurisdiction. The Consumer Protection Act is a special statute and a self contained code. The appeal in FA.No.144 of 2021 has been filed by the respondent No.4/Developer before the State Commission under Section 73 of the Act, 2019. Section 73 is extracted below for ready reference:-

“73 (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from—

(a) the order made by the District Forum to the State Commission;

(b) the order made by the State Commission to the National Commission; and

(c) the order made by the National Commission to the Supreme Court.

(2) Except as provided in sub-section (1), no appeal shall lie before any court, from any order of a District Forum or a State Commission or the National Commission, as the case may be.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of order of a District Forum or a State Commission or the National Commission, as the case may be:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days.”

15. It is thus evident that not every appeal filed against any order of the District Forum can be entertained for the asking and a stay order granted mechanically. When it is a question of jurisdiction, the appellate authority, should have first satisfied itself as to whether it is vested with the jurisdiction to entertain the said appeal at all, more so, when the District Forum has clearly held that an application moved by the respondent No.4 under Section 151 CPC, is not maintainable. It is apparent that the order passed by the District Forum dated 09.03.2021, dismissing I.A.No.29 of 2021 filed by the respondent No.4/Developer on the ground that such an application is not maintainable, is not an order passed under Section 72(1) so as to attract the provisions of Section 73 of the Act, 2019. However, instead of deciding the aspect of maintainability of the appeal at the threshold, the State Commission chose to mechanically entertain the said appeal and further, relying on the judgment dated 08.06.2017 passed by a Division Bench of this Court in M/s.Raghavendra Associates v. Consumer Disputes Redressal Forum-I, Hyderabad (W.P.No.30234 of 2017), granted a stay of all further proceedings.

16. We are of the opinion that the principles of law laid down in the aforesaid decision do not have any application to the case in hand. The ratio laid down in M/s.Raghavendra Associates's case (supra) would have been applicable if a substantive appeal or an appeal, which is otherwise maintainable in law, would have been pending. In the instant case, I.A.No.29 of 2021, filed by the respondent No.4/Developer under Section 151 CPC, in a disposed of Execution Petition has been dismissed by the District Forum on the ground of maintainability. There was no question of entertaining an appeal under Section 73 of the Act, 2019 against the said order.

17. In fact, Section 72(1) of the Act, 2019 corresponds to Section 27 of the Act, 1986. As pointed out above, the order dated 19.07.2017 was passed by the District Forum in EA.No.38 of 2013 by invoking its jurisdiction under Section 27 of the Act, 1986 and the same had attained finality. Neither has any new order been passed, nor could any order have been passed under Section 72(1) of the Act, 2019 or under Section 27 of the Act, 1986, as the case may be. The District Forum having rightly held that it has become '*functus officio*', has dismissed the application moved by the respondent No.4/Developer vide I.A.No.29 of 2021 filed under Section 151 CPC, as being not maintainable. Thus, the purported appeal preferred by the respondent No.4/Developer against the said order before the State Commission in F.A.No.144 of 2021, is not maintainable since the State Commission lacked the inherent jurisdiction to entertain the same.

18. Even assuming for a moment that an incorrect provision of law has been mentioned by the respondent No.4/Developer and Section 151 of the CPC, has been erroneously invoked, learned counsel for the caveator/respondent No.4 has not been able to convince this Court by drawing our attention to any other corresponding provision under the Act, 2019 which would vest jurisdiction on the State Commission to entertain a petition and grant such a relief, as has been sought by the respondent No.4/Developer in I.A.No.29 of 2021.

19. Further, assuming that the order of the State Commission directing delivery of 45% of flats in the developed building has been complied with by the respondent No.4/Developer, as has been contended by learned counsel for the respondent No.4/Developer, his remedy lies elsewhere. However, it needs to be noted that the petitioner has vehemently denied such an assertion of compliance of the order of the District Forum by the respondent No.4/Developer. It is the case of the petitioner that 20 flats have been constructed in terms of the Development Agreement and her share of 45%, comes to just less than 10 flats, whereas, pursuant to the interim order dated 25.01.2021 passed by the National Commission, the petitioner has taken possession of only 7 flats, without prejudice to her rights.

20. This Court is however refraining from making any observations on such claims lest it prejudices the rights of the parties. We are only concerned with the maintainability of the appeal (F.A.No.144 of

2021) as filed by the respondent No.4/Developer before the State Commission and not the compliance or otherwise of the order of the District Forum and/or the State Commission. The District Forum having held that there is non-compliance of the order of the State Commission, has dismissed the application moved by the respondent No.4/Developer vide order dated 19.03.2001, reiterating that nothing can be done in the matter of his conviction under Section 27 of the Act, as imposed by the Forum in E.A.No.38 of 2013. No appeal lies against such an order under the statute.

21. In the guise of moving an application under Section 151 CPC, the relief actually sought is to set aside the order of conviction. This would amount to reviewing the order of the District Forum in E.A.No.38 of 2013, which has attained finality. By doing so, the respondent No.4/Developer is trying to indirectly achieve something which he could not achieve directly. That cannot be permitted.

22. The facts of this case remind the court of the oft quoted legal maxim "Justice delayed is Justice denied" which is not a cosmetic statement. All the stake holders have a role to play in ensuring that justice is not delayed. There are several factors that contribute to inordinate delays in the disposal of cases, including the abuse of the legal process, adoption of dilatory tactics and cumbersome procedures. The case at hand is a classic example of abuse of the legal process. The petitioner, who had instituted a complaint before the

District Forum as long back as in the year 2007 and has been successful in two rounds of litigation right from the District Forum to the National Commission, has so far, not been able to receive the benefits of the favourable orders. The reason being that the respondent No.4/opposite party before the District Forum has left no stone unturned to deprive the petitioner of the fruits of the orders to the point of filing an appeal against an order passed by the District Forum, where no such appeal is maintainable in law, wherein the State Commission has proceeded to grant a stay order in his favour.

23. In the light of the above discussion, the present petition is allowed and it is held that F.A.No.144 of 2021 filed by the respondent No.4/Developer before the State Commission is not maintainable in law. As a result, the proceedings in appeal, F.A.No.144 of 2021 and interim order dated 25.03.2021 in F.A.I.A.No.295 of 2021 is also declared as *non est* and accordingly, quashed and set aside. Pending miscellaneous petitions, if any, shall stand closed with no order as to costs.

HIMA KOHLI, CJ

B. VIJAYSEN REDDY, J

01st June, 2021
DSK/PLN
Note : LR copy be marked.
(By order)
DSK/PLN