THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

EA-3011/2022
IN
Appeal/392/2021

KUNWAR ROOP KISHORE ....**Appellant**

Versus

AGRANI HOMES PVT LTD ....**Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Mr. T.B. Singh, Judicial Member
Hon'ble Mr. K.K. Jain, Technical Member

Case called on.
Sri Ajay Singh, representative of the decree holders alongwith his counsel Sri Arvind Kumar Shukla on behalf of decree holder, and Sri Alok Kumar, the judgment debtor/Director of the builder-company alongwith his counsel Sri Sanjay Awasthi appeared.
Counsel for the judgment debtor submitted that in compliance of order dated 16.08.2022 the judgment debtor has filed the statement of affair of assets and liability dated 27.02.2022 on 29.08.2022. The total value of assets shown in statement is Rs. 87 Crore as it is obvious from paper No. 12 and total liability of builder -company is Rs. 45,49,12,101/06 which is apparent from the paper No. 39 enclosed with the statement of affairs.
Counsel for the decree holder submitted that statement of affairs filed by the judgment debtor seems to be correct subject to value of the assets shown on page No. 12 which is only estimated value of the assets and circle rate valuation would be far below. He also submitted that he wants to file objection against the statement of affairs filed by the judgment debtor.
Counsel for the decree holder is directed to file objection, if any, against the statement of affairs submitted by the judgment debtor, before the date fixed, and copy of the same will be sent on the respective e-mail addresses of the judgment debtor and his counsel, before the date fixed.

The judgment debtor is also directed to file its audited balance-sheet as on 31.03.2022 as well as balance-sheet on the date of preparation of statement of affairs.

It appears that the judgment debtor has over estimated the value of assets as per circle rate valuation shown by the judgment debtor is only Rs. 27,11,16,342/- which is apparent from paper No. 13. The Director of builder-company submitted that the value of land in Kesaripur has been assessed on the assumption that FSI (Floor Space Index) would be sold to some other builder-company as it is an approved project.

It is obvious that the book value of assets has not been provided by the builder-company as directed vide order dated 16.08.2022, also the valuation report/expression of interest should be provided in support of the valuation of assets particularly for the project land in Kesaripur. The valuation should not be estimated on future profit basis, rather it should be estimated on the basis of realizable value as payment may be made to the decree holders as earliest.

Counsel for the decree holder further submitted that in few cases recovery certificate could not be issued by the Hon'ble Tribunal therefore, recovery certificate be issued in those cases.

Countervailing the argument of counsel for the decree holder, counsel for the judgment debtor submitted that recovery certificate has already been issued by the learned Regulatory Authority.

We direct both the parties to submit the details of complaint-wise status of the recovery certificate, before the date of listing of the case.

During the course of hearing the facts came to the notice that the matter is likely to be settled finally between the parties and the amount collected through recovery proceedings be distributed amongst all the decree holders in fair manner. Hence, in the light of above, the District Magistrate, Varanasi/any other Recovery Officer is directed not to dispose the properties of the builder-company i.e. M/s. Agrani Homes Pvt. Ltd. in the meantime otherwise the purpose of settlement/recovery will be frustrated.

Copy of earlier order dated 16.08.2022 alongwith today's order be sent to the District Magistrate, Varanasi and Secretary, U.P. RERA, Lucknow for information and necessary action.

List this case on **12.09.2022** for further order.

(K.K. Jain) (T.B. Singh)

Dated: 30.08.2022
PRADEEPKUMAR