

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NOS.133-135 OF 2018**

(@ Special Leave Petition (Civil) Nos.22802-22804 of 2016)

M/s Mangalam Homes &
Resorts Pvt.Ltd.& Ors.

.... Appellant(s)

Versus

Joy Kaliyavumkal & Anr. Etc.

... Respondent(s)

J U D G M E N T**Deepak Gupta J.**

Delay condoned.

2. Leave granted.

3. These appeals are directed against the common judgment dated 06.01.2015 and 08.12.2015, whereby the appeals filed by the complainants (Respondents herein) and the review petitions filed by the petitioners were allowed. Each set of complainants was awarded Rs.14 lakhs as compensation along with interest @12% per annum

w.e.f. 06.09.2011 on the ground that the appellants (builder) had compromised a similar matter with one Shri P.V. Babu in a civil suit. In view of the decision which we propose to take, it is not necessary to set out the facts of the case in detail.

4. The main ground raised is that the appellants herein were wrongly proceeded *ex parte* and only on this ground the order of the National Consumer Disputes Redressal Commission ('the National Commission' for short) should be set aside and the matter be remanded to the National Commission to decide the same after hearing both the sides.

5. On behalf of the appellants it is urged that the appellants had received notice dated 08.07.2014 from the National Commission and, thereafter, they had sent a reply on 25.07.2014 praying that the matter may be heard in the Camp Sitting of the National Commission at Bengaluru. According to the appellants, no reply was received to this letter. On behalf of the claimants/respondents it is urged that the appellants were aware of the case and that the matter had been settled on the basis of a compromise arrived at by the appellants with another consumer and there is no need to set

aside the order. After going through the record we find that the appellants had made a request that their matter be heard at Bengaluru. Copies of the orders passed thereafter have been placed on record and the record does not show that the appellants were ever informed that their request for having the matter heard at Bengaluru was either accepted or rejected. Therefore, we are of the considered opinion that the National Commission erred in not issuing fresh notice to the appellants. Accordingly, the order of the National Commission is set aside and the matter is remitted to the National Commission for hearing the same on merits.

6. Vide order dated 22.07.2016 while issuing notice we had directed the appellants to deposit the amount as awarded by the National Commission. The said amount shall remain in deposit and disbursal of the same shall abide by the final decision of the National Commission.

7. The parties are directed to appear before the National Commission at Delhi on 12th February, 2018.

8. With these directions the appeals stand disposed of. Pending applications, if any, shall also stand disposed of.

.....**J.**
(Madan B. Lokur)

.....**J.**
(Deepak Gupta)

New Delhi
January 10, 2018