

Court No. - 18

Case :- RERA APPEAL No. - 86 of 2022

Appellant :- Ms. Meena Gupta

**Respondent :- M/S One Place Infrastructure Pvt. Ltd.
Varanasi,U.P. And Another**

**Counsel for Appellant :- Vivek Singh,Vatsala Singh,Vishnu
Dev Shukla**

Counsel for Respondent :- Shobhit Mohan Shukla

Hon'ble Saurabh Lavania,J.

Heard learned counsel for the appellant.

Admit on the following questions of law:-

"(i) Whether the RERA/respondent No.2 has committed grave error in holding that the Central Government prohibited the scheme of the Assured Return by bring an Ordinance in the year 2018 in view of Placitum 2 of the First Schedule of the "The Banning of Unregulated Deposit Scheme Act, 2019"?"

(ii) Whether the contractual obligation between the appellant and respondent no.1 as per the Agreement for Sale dated 01.12.2017 having sanction of "The Banning of Unregulated Deposit Scheme Act, 2019" is consistent with the Real Estate (Regulation and Development) Act, 2016 and if it is, the learned Forums below have erred in law in non suiting the appellant?

(iii) Whether in view of the statutory prescription made in Section 11(4)(a) read with Section 34 (f) of Estate (Regulation and Development) Act, 2016 the learned Courts below have committed grave error in holding the complaint to be not maintainable, particularly when it is essential functioning of Real Estate Regulatory Authority to ensure compliance of obligations cast upon the promoter and Assured Return being one of the obligation having sanction of law as per Placitum 2 Schedule of The Banning of Unregulated Deposit Scheme Act, 2019?

(iv) Whether in view of the arrangement in the agreement between the appellant and respondent no.1 regarding Assured Return which is having statutory appeal under The Banning of Unregulated Deposit Scheme Act, 2019 and resultantly under Real Estate (Regulation and Development) Act, 2016, the inherent and natural inference that Assured Return is part of builder-buyer agreement is not having commercial transaction and the learned Appellate Tribunal has thus erred in holding the same to be not covered under 2016 Act?

(v) Whether the learned Tribunal has not erred in law in holding that Assured Return is independent commercial arrangement between the parties having trapping of profit earning as main aim in view of the fact that the Project is under vigil of RERA and all actions, Inter-se appellant and respondent no.1 are subject matter of regulations under 2016 Act?

(vi) Whether the authority as also the Tribunal constituted under the Real State (Regulation and Development) Act, 2016 erred in law rejecting the claim of the appellant in view of Section 8.3(a)(k) of the Act of 2016?"

Issue notice to respondent, returnable at an early date.

Summon the lower court's record.

Steps be taken within seven working days.

List immediately after service of notice.

Order Date :- 12.1.2023

Vinay/-