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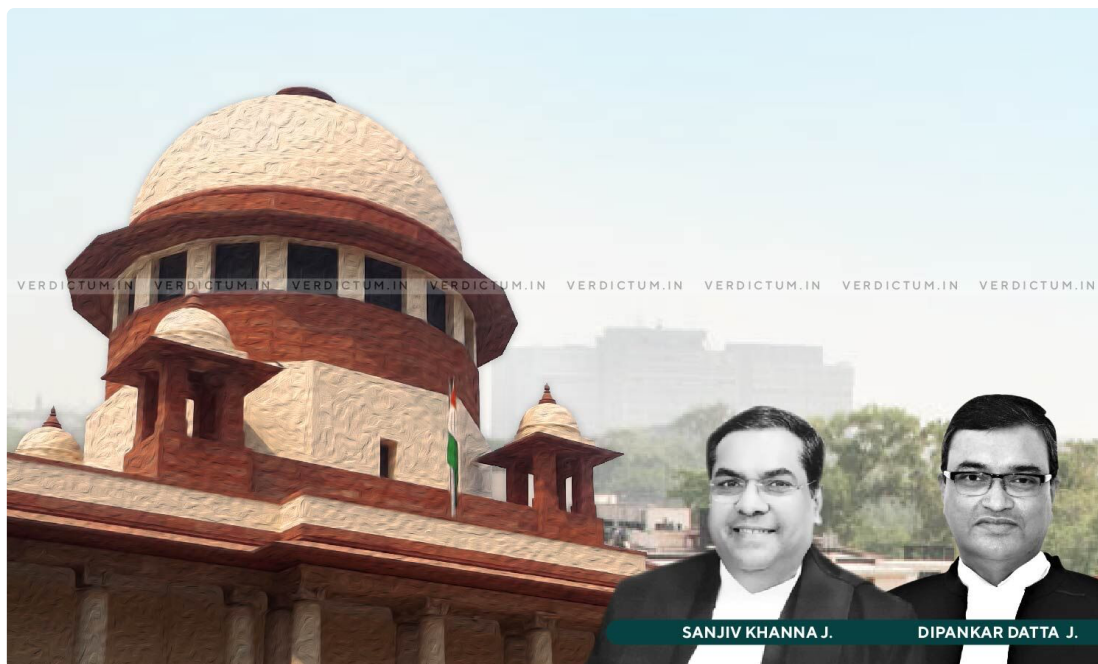
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SC To Consider Whether Homebuyer Whose Payment Is Reflected In Accounts Of Builder But Has Not Filed Claim In Insolvency Proceedings Retains Entitlement

By Sukriti Mishra | 11 May 2024 5:00 PM



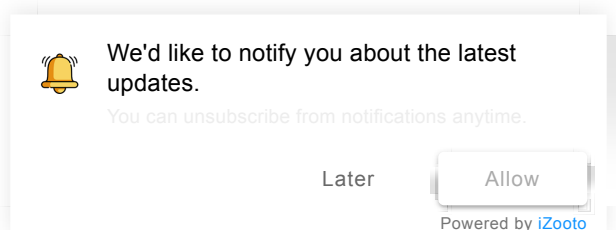
In a significant development, the Supreme Court has decided to delve into the issue of whether a homebuyer's failure to file a claim under the Insolvency Resolution Plan (IRP) could deprive them of obtaining possession of a flat, despite having made payments that are duly reflected in the accounts of the corporate debtor.

While issuing notice in response to a plea filed by a homebuyer, the Bench of **Justice Sanjiv Khanna** and **Justice Dipankar Dutta** clarified that the Court's decision does not interfere

with the execution or implementation of the resolution plan in the specific case at hand.

"We clarify that the issue of notice in the present appeal will not come in the way of execution/implementation of the resolution plan. Allotment of the unit to the appellant, if made, will be subject to the outcome of the present appeal and the right and claim of the appellant," the Bench said.

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Senior Advocate Archana Pathak Dave appeared for the Appellant while **Senior Advocate Neeraj Kishan Kaul** appeared for the Respondents.

The Appellant was allotted a flat in a project undertaken by the corporate debtor, Jaypee Infratech Limited (JIL), back in 2009. Subsequently, he made substantial payments toward the purchase of the flat, however, despite the payments, he has not received possession of the flat till date. Further, JIL entered the Corporate Insolvency Resolution Process (CIRP).

During the insolvency process, the Insolvency and Bankruptcy Board of India (IBBI) directed the insolvency professional to assess the claims of homebuyers based on the records of the corporate debtor. JIL's website stated that the flats of homebuyers who did not file claims during the insolvency process would be treated on par with other homebuyers, rendering the submission of a claim form by the appellant non-mandatory.

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Pertinently, the Appellant's flat was listed as a liability of the corporate debtor in the information memorandum, however, in the Resolution Plan approved by the National Company Law Tribunal (NCLT) and proposed by the Successful Resolution Applicant (SRA), a contingent deadline of March 7, 2023, was set for the submission of claims. Citing his failure to submit the claim form, JIL subsequently denied his possession of the flat. He had then approached the National Company Law Appellate Tribunal (NCLAT), seeking relief, however his plea was dismissed. Thereafter, he challenged the same by filing an Appeal before the Apex Court.

During the hearing on April 29, the Appellant, representing the interests of homebuyers, argued that filing a claim was unnecessary since the appellant's name was duly recorded in the corporate debtor's accounts and there was no dispute regarding the genuineness of the payments made.

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"The appellant is not challenging the resolution plan and merits thereof. The appellant restricts his claim only to the extent that he is a home buyer whose payments were/are reflected in the books of accounts of the corporate debtor and that there is no dispute that the payments are genuine. Learned counsel submits that non-filing of the claim etc. by the appellant should not result in rejecting his claim and entitlement as a home buyer," the Court noted in its Order.

While scheduling the matter for further consideration in the week commencing September 2, the Court ordered, *"Counter affidavit/reply will be filed within six weeks from today. Rejoinder affidavit, if any, will be filed within six weeks after the service of counter affidavit/reply."*

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Cause Title: [Ayush Agarwal v. Jaypee Infratech Ltd & Ors. \[Civil Appeal No. 5185/2024\]](#)

Appearance:-

Appellant: Senior Advocate Archana Pathak Dave, Advocates Tushar Jain (AoR), Mukesh Kumar, Vaibhav Chowdhary, Sumant Batra, Sanjay Bhati, Rabin Mazumdar, Sarthak Bhandari, Nidhi Yadav

Respondent: Senior Advocate Neeraj Kishan Kaul, Advocates EC Agrawala (AoR), Mahesh Agarwal, Rishi Agrawala, Geetika Sharma, Sagar Bansal

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ITEM NO.11**COURT NO.2****SECTION XVII****S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS****Civil Appeal No. 5185/2024****AYUSH AGARWAL****Appellant(s)****VERSUS****JAYPEE INFRATECH LTD. & ORS.****Respondent(s)****(IA No.92614/2024-GRANT OF INTERIM RELIEF and IA No.92613/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.92615/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)****Date : 29-04-2024 This appeal was called on for hearing today.****CORAM :****HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA****For Appellant(s) Ms. Archana Pathak Dave, Sr. Adv.****Mr. Tushar Jain, AOR
Mr. Mukesh Kumar, Adv.
Mr. Vaibhav Chowdhary, Adv.****Mr. Sumant Batra, Adv.
Mr. Sanjay Bhati, Adv.
Mr. Rabin Mazumdar, AOR
Mr. Sarthak Bhandari, Adv.
Ms. Nidhi Yadav, Adv.****For Responde Page 1 / 2 l, Sr. Adv.****Justice Sanjiv Khanna Justice Dipankar Datta****Sukriti Mishra****Next Story****Establishing Gram Nyayalayas Would Help Improve**

Access To Justice: Supreme Court

By Verdictum News Desk | 11 Sept 2024 7:00 PM

The Supreme Court today said establishment of Gram Nyayalayas across the country would help improve access to justice.

An Act passed by Parliament in 2008 provided for the establishment of Gram Nyayalayas at the grassroots level for providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to anyone because of social, economic or other disabilities.

A bench headed by **Justice B R Gavai** was hearing a plea seeking a direction to the Centre and all states for taking steps to set up 'Gram Nyayalayas' under the supervision of the apex court.

During the hearing, **Advocate Prashant Bhushan**, appearing for petitioner NGO National Federation of Societies for Fast Justice and others, said only about five to six per cent of Gram Nyayalayas have been set up till now.

"Some of the states are saying we don't need Gram Nyayalayas because we have Nyaya

Panchayats," Bhushan told the bench, which also comprised **Justice P K Mishra** and **Justice K V Viswanathan**.

He said Nyaya Panchayats were not really the same as Gram Nyayalayas, which have judicial officers.

The bench appointed a senior advocate to assist it as an amicus curiae in the matter.

"Sooner these Nyayalayas are established... it's better for access to justice," the bench observed.

An advocate appearing for the Himachal Pradesh High Court told the bench that the high court has been writing to the state government since 2009 requesting for establishing Gram Nyayalayas.

The bench noted that the counsel appearing for the Himachal Pradesh High Court has stated that in spite of repeated reminders to the state for establishment of Gram Nyayalayas, no steps have been taken in the matter.

The apex court directed the Himachal Pradesh government to respond before the next date of hearing.

It posted the matter for hearing after four weeks.

The bench asked states or high courts that have not yet filed their affidavits in the matter to file those within three weeks.

While hearing the matter on July 12, the apex court had observed, *"In our view, the establishment of more Gram Nyayalayas would, apart from providing access to justice at affordable price and providing justice at door steps, also de-clog the huge pendency of matters before the trial courts."*

It had directed the chief secretaries of states/Union Territories and registrar generals of the high courts to file affidavits within six weeks giving details regarding establishment and functioning of Gram Nyayalayas, including infrastructure made available for them.

Bhushan had earlier argued that directions were needed to be issued to all states to notify and establish Gram Nyayalayas as statutorily provided for under the Gram Nyayalays Act of

2008.

He had said that sections 5 and 6 of the 2008 Act provide that state government in consultation with the high court will appoint a 'Nyayadhikari' for each Gram Nyayalaya who will be a person eligible to be appointed as a judicial magistrate first class.

The apex court had on January 29, 2020 directed the states, which had not yet issued notifications for establishing Gram Nyayalayas, to do so within four weeks.

It had asked the high courts of states, where the constitution of Gram Nyayalayas and appointment of its members were pending, to expedite the process of consultation with the respective governments.

With PTI Inputs

Justice B.R. Gavai Justice PK Mishra Justice K.V. Vishwanathan

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