

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

NEW DELHI

FIRST APPEAL NO. NC/FA/186/2024

(Against the Order dated 13th July 2023 in Complaint No. CC/107/2022 of the State
Consumer Disputes Redressal Commission Delhi)

WITH

NC/IA/3963/2024 (EXCEMPTION OF FILE TYPED COPIES OF DOCUMENTS)

NC/IA/3962/2024 (STAY)

NC/IA/3964/2024 (CONDONATION OF DELAY)

ANSAL HOUSING LTD.

.....Appellant(s)

PRESENT ADDRESS – REGD. OFFICE 606,6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

MR. KUSHAGR ANSAL

PRESENT ADDRESS – REGD. OFFICE 606, 6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

MR. ASHOK KHANNA

PRESENT ADDRESS – REGD. OFFICE 606, 6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

MR. M.K. TRISAL

PRESENT ADDRESS – REGD. OFFICE 606, 6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

MS. NEHA ANSAL

PRESENT ADDRESS – REGD. OFFICE 606, 6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

MS. IQNEET KAUR

PRESENT ADDRESS – REGD. OFFICE 606, 6TH FLOOR, INDRA

PRAKASH 21, BARAKHAMBHA ROAD, NEW DELHI-110001

Versus

MR.GAURAV BHARDWAJ

.....Respondent(s)

PRESENT ADDRESS – THROUGH MR. S.L.KAPOOR, R/O 678 CHIRAG,
NEW DELHI-110091

BEFORE:

HON'BLE MR. JUSTICE SUDIP AHLUWALIA , PRESIDING MEMBER

HON'BLE DR. SADHNA SHANKER , MEMBER

FOR THE APPELLANT:

MR. DHARITRY PHOOKAN, ADVOCATE RONMI RISOM,
ADVOCATE ALONGWITH A.R., PRITIKA SINGH, AR

DATED: 16/10/2026**ORDER**

JUSTICE SUDIP AHLUWALIA, MEMBER

IA 3964 of 2024

The Appellants have explained that they became aware of the impugned Order in November 2023, applied for a certified copy on 12.02.2024, received it on 16.02.2024, and initially approached this Commission by filing a Revision Petition on 21.02.2024 under a bona fide belief that the remedy was maintainable. Upon the Registry pointing out the objection regarding maintainability, the present Appeal was filed on 06.03.2024. The Respondent, on the other hand, has relied upon emails dated 09.08.2023 and 26.08.2023 and the subsequent execution proceedings to dispute the explanation. Having considered the rival submissions and the circumstances in which the Appellants pursued the remedy before this Commission, the delay is condoned in the interest of justice. The Application is accordingly allowed.

FA 186 of 2024

2. This First Appeal has been filed by the Appellants/Opposite Parties challenging the Order dated 13.07.2023 passed by the Ld. State Consumer Disputes Redressal Commission, Delhi in Consumer Complaint No. 107 of 2022, whereby the Ld. State Commission directed the Appellants to hand over possession of the Apartment in question, refund Rs. 3,00,000/- towards covered car-parking charges with interest, pay compensation for delayed possession @ Rs. 5/- per sq.ft. per month, pay Rs. 1,00,000/- towards mental agony and harassment and Rs. 50,000/- towards litigation costs, besides restraining them from raising any further demand in respect of the Apartment.

3. The brief facts necessary for disposal of this First Appeal are that the Respondent/Complainant was allotted Flat No. 804, Tower- I in Ansal Heights, Sector 86, Gurgaon, pursuant to a Flat Buyers' Agreement dated 05.03.2013. An offer of possession was issued by the Appellants on 05.12.2020, accompanied by a demand for various charges. Aggrieved by the demands and the failure to deliver possession, the Respondent approached the Ld. State Commission, which passed the impugned Order dated 13.07.2023.

4. The Appellants have contended that the Ld. State Commission failed to appreciate the contractual terms governing the sale consideration and other charges. It is submitted that the Basic Sale Price of Rs.49,85,200/- included Preferential Location Charges and one covered car parking, whereas several other charges were expressly excluded and were payable separately under the Flat Buyers' Agreement. It is further contended that

the direction to refund Rs. 3,00,000/- towards car parking is contrary to the Agreement; That compensation for delayed possession could not continue beyond the actual delivery of possession; and that the Ld. State Commission could not have imposed a blanket prohibition against raising further demands when no such relief had been sought by the Respondent. The Appellants have also opposed the award of relief beyond the scope of their Appeal, contending that the Respondent did not file any Appeal against the impugned Order.

5. The Respondent has opposed the Appeal and supported the impugned Order. It has been contended that the Appeal was filed after an unexplained delay and that the Appellants had knowledge of the Order passed by the Ld. State Commission before the date claimed by them. The Respondent has further opposed the Appellants' challenge to the reliefs granted by the Ld. State Commission.

6. We have heard Ld. Counsel for the parties and perused the material available on record, including the written synopses and the judgments relied upon by them.

7. The first issue requiring consideration is the refund of Rs. 3,00,000/- towards covered car-parking charges. A perusal of the Statement of Account dated 05.12.2020, placed at page 101 of the Appeal, read with the terms of the Flat Buyers' Agreement, shows that the Basic Sale Price of Rs. 49,85,200/- included Preferential Location Charges and one covered car parking. Further, the Order dated 24.03.2026 passed by this Commission records the submission on behalf of the Appellants that the Preferential Location Charges and car-parking charges had been paid by the Respondent, while certain other charges, including those towards external electrification, fire fitting and power backup, remained payable. It was also recorded that the Appellants were no longer claiming escalation charges. In view of the contractual position and the aforesaid material, the separate direction for refund of Rs. 3,00,000/- towards covered car parking, together with interest, cannot be sustained and is liable to be set aside.

8. As regards compensation for delayed possession, the Ld. State Commission awarded compensation @ Rs. 5/- per sq.ft. per month until actual delivery of possession. It is an admitted position that possession of the Apartment was delivered to the Respondent on 16.06.2026 pursuant to the Order dated 26.05.2026 passed by this Commission. Accordingly, compensation under this head shall be payable only up to 16.06.2026.

9. However, the delivery of physical possession does not, by itself, discharge the Appellants' obligation to obtain the requisite Occupancy Certificate. In 'Parsvnath Developers Ltd. v. Mohit Khirbat & Ors.', 2026 INSC 170, the Hon'ble Supreme Court has reiterated the significance of obtaining the requisite Occupancy Certificate and the deficiency in service arising from its absence. No material has been placed before us to show that the requisite Occupancy Certificate in respect of the Apartment has been obtained. The Appellants shall, therefore, pay compensation @ Rs. 100/- per day with effect from 17.06.2026 until the requisite Occupancy Certificate is obtained from the competent Authority.

10. The Appellants have further challenged the direction contained in paragraph 26 of the impugned Order, whereby they were restrained from raising any further demand in respect of the Apartment. Having regard to the terms of the Flat Buyers' Agreement and the Statement of Account referred to above, a blanket prohibition against raising any further demand cannot be sustained. The Appellants may raise only such charges as are contractually authorised and legally payable, after giving credit for amounts already paid. No escalation charges shall be claimed, in view of the submission recorded in the Order dated 24.03.2026. Accordingly, the direction contained in paragraph 26 of the impugned Order is set aside.

11. The contention of the Appellants that no relief can be granted to the Respondent in the absence of an Appeal filed by him is also considered. In 'Dr. Satish Kumar Dabas v. Shambu Dayal & Ors.', Revision Petition Nos. 1858 and 1869 of 2015, decided on 14.11.2017, the Commission discussed the scope of Order XLI Rule 33 of the Code of Civil Procedure and the power of an Appellate Forum to mould relief in appropriate circumstances, even where the beneficiary of such relief has not preferred an independent Appeal. The principle discussed therein, read with the authorities referred to in that judgment, does not support the absolute proposition advanced by the Appellants. In the present case, the direction for continuing compensation is founded on the subsisting deficiency arising from the absence of the requisite Occupancy Certificate, notwithstanding delivery of physical possession. The direction is confined to that continuing deficiency and is necessary to secure appropriate relief in the facts of the case.

12. In view of the foregoing discussion, the Appeal is partly allowed, and the Order dated 13.07.2023 passed by the Ld. State Commission is modified as follows:

(i) The direction for delivery of possession stands satisfied, possession having been delivered on 16.06.2026.

(ii) The direction for compensation @ Rs. 5/- per sq.ft. per month shall operate only up to 16.06.2026.

(iii) Thereafter, the Appellants shall pay further compensation @ Rs. 100/- per day from 17.06.2026 until the requisite Occupancy Certificate in respect of the Apartment is obtained from the competent Authority.

(iv) The direction for refund of Rs. 3,00,000/- towards covered car-parking charges, together with interest thereon, is set aside.

(v) The direction contained in paragraph 26 of the impugned Order is set aside. The Appellants may raise only such charges as are contractually authorised and legally payable, after adjustment of amounts already paid. No escalation charges shall be claimed.

13. The remaining directions of the Ld. State Commission, including the award of Rs. 1,00,000/- towards mental agony and harassment and Rs. 50,000/- towards litigation

costs, are maintained. There shall be no order as to costs in the present Appeal.

14. Pending application(s), if any, also stand disposed off as having been rendered infructuous.

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SUDIP AHLUWALIA
PRESIDING MEMBER

.....

DR. SADHNA SHANKER
MEMBER

MANJIT KAUR/Court-2/A