

CASE NO.:
Appeal (civil) 1341-1342 of 2008

PETITIONER:
Pankaj Karmakar & Ors.

RESPONDENT:
Bengal Ambuja Housing Dev. Ltd. & Ors.

DATE OF JUDGMENT: 15/02/2008

BENCH:
H.K. SEMA & MARKANDEY KATJU

JUDGMENT:
JUDGMENT

O R D E R
(Arising out of SLP(C) NOS. 16894-16895/2007)

Leave granted.

Although lengthy arguments have been advanced before us, in our view, the whole controversy is confined to the question as to whether the election is to be held from amongst members of eight towers or including members of the 9th tower. We are not inclined to go into the merits of the matter. In the orders of the High Court dated 20th February, 2007 and 30th April, 2007, it is clearly held that the election was to be conducted from amongst the members of eight towers. So far as the 9th tower is concerned, it has been expressly held by the High Court that the legality of the construction of the 9th tower is subjudice before a civil Court. In our view, therefore, members of the 9th tower are not entitled to participate in the election till the trial Court decide the issues.

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We, accordingly, dispose of these appeals by directing the Special Officer to conduct the elections from amongst members of the eight towers. It is clarified that only the members of the eight towers shall participate in the election. We direct the Special Officer to conduct the elections peremptorily within a period of three months from today.

To the aforesaid extent, the Orders of the High Court are set aside. The appeals are disposed off. In view of the order passed above, the contempt proceedings are closed.