

Court No. - 39

Case :- WRIT - C No. - 32907 of 2023

Petitioner :- Amrendra Mishra

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ramesh Kumar Mishra, Gyanendra Kumar Mishra

Counsel for Respondent :- C.S.C., Harsh Vardhan Gupta, Nilamber Tripathi

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Surendra Singh-I, J.

1. Heard Shri Ramesh Kumar Mishra, learned counsel for the petitioner and Shri Nilamber Tripathi, learned counsel for the respondent nos. 2 and 3.

2. Petitioner is aggrieved by the demand notice dated 03.08.2023 insofar as various charges are imposed upon the petitioner, which are not referable to Section 15 of the Act.

3. The issue has been examined by the Supreme Court dated 28.4.2023 in Mathura Vrindavan Development Authority and another vs. Rajesh Sharma and others (Civil Appeal No. 5645 of 2015), in which following orders have been passed by the Supreme Court:

"13. In view of the above and for the reasons stated above, the levy of development charges/fees by the various Development Authorities of the State of U.P. is hereby confirmed. The decision of the High Court in the case of Rekha Rani (supra) (Civil Appeal No. 4489/2014) quashing and setting aside the levy of development charges/fees is hereby quashed and set aside to that extent. The impugned judgments and orders passed by the High Court quashing and setting aside the demand notices/levy of other charges/fees, namely, inspection fee/supervision fee while granting of sanction layout plan, sub-division charges, impact fee etc. (other than development charges/fees) are hereby confirmed.

14. It is observed and directed that any amount already paid by the respective original writ petitioners other than the development charges/fees and the charges provided under Section 15(2-A), now be refunded to the respective original writ petitioners with 6% interest per annum, within a period of twelve months from today, of course after adjusting development charges/fees. It is made clear that we have not expressed anything on the levy of betterment charges, which, as such, is otherwise permissible under section 35 of the Act,

1973. It is also made clear that the order of refund shall be applicable only with respect to those original writ petitioners/persons who have challenged the demand notices and who were before the High Court. It is also observed and it is made clear that if any individual/original writ petitioner has any other grievances, it will be open for them to approach the High Court by way of independent proceedings."

4. In the facts of the case, we dispose of this petition with a direction upon the development authority to accept deposit of amount in terms of the order passed by the Supreme Court after excluding various charges which are not leviable in law and thereafter release the map expeditiously.

Order Date :- 27.10.2023

Zafar

(Surendra Singh-I,J.) (Saumitra Dayal Singh,J.)