

Court No. - 46

Case :- WRIT - C No. - 35263 of 2023

Petitioner :- Kuldeep Singh

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Aklank Kumar Jain, Bhanu Pratap Dhakray

Counsel for Respondent :- C.S.C., Dharmendra Singh Chauhan, Komal Mehrotra

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

1. Heard learned counsel for the parties.

2. The petitioner is aggrieved by the demand of charges by the respondent-Development Authority under the various heads except the charges payable under Section 15 (2-A) of the U.P. Urban Planning and Development Act. It is submitted that the Supreme Court on 28th April, 2023 in a batch of appeals, the leading appeal is Civil Appeal No. 5645 of 2015, has held as under:-

"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.

15. The present appeals stand disposed of in terms of the above. In the facts and circumstances of the case, there shall be no order as to costs."

3. Submission is that in view of the law laid down by the Supreme Court the demand of authority over and above the amount held permissible therein would clearly be arbitrary.

4. Shri D.S. Chauhan appearing for the Development Authority states that the authority shall revisit the issue in the light of the law laid down by the Supreme Court.

5. In view of the stand so taken by the Development Authority, we dispose of this petition with a direction upon the second respondent to recalculate the amount payable to the petitioner keeping in view the law laid down by the Supreme Court in the aforesaid civil appeal within a period of six weeks from the date of presentation of a copy of this order.

6. In order to facilitate the consideration of claim afresh, the demand notice dated 13.02.2023 stands quashed.

Order Date :- 28.11.2023

C. MANI