

Chief Justice's Court

Case :- WRIT - C No. - 35518 of 2023

Petitioner :- Asheesh Mehrotra

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

Counsel for Petitioner :- Gopal Das Srivastava, Deo Kumar Tripathi

Counsel for Respondent :- C.S.C., Mohd. Afzal

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Ashutosh Srivastava, J.

Heard Shri K. M. Mishra under the authority of Shri Gopal Das Srivastava, learned counsel for the petitioner and Mohd. Afzal, learned counsel representing respondent Nos. 2 & 3. Learned Standing Counsel represents the State-respondent Nos. 1 & 4.

The petitioner is a home buyer and is aggrieved by the action of the respondents in not giving effect to the order passed by the respondent No. 2 dated 6.6.2018/ whereby and whereunder the promoter M/s Mist Direct Sales Private Limited has been directed to refund an amount of Rs.21,75,136/- along with interest within a period of 45 days.

It is contended by learned counsel for the petitioner that despite the orders having been passed as far back on 6.6.2018, and the recovery certificate No. 1914/UP/RERA/Recovery/2018-19 dated 30.3.2019 having been issued for recovery of the amount directed by the Adjudicating Officer, U.P. RERA, the petitioner has yet not received the fruits of the order passed in his favour. Though, the petitioner has prayed for deciding the application/modification/rectification dated 29.12.2020 along with impleadment/amendment application dated 24.8.2023 to facilitate the expeditious recovery of the amount under the recovery certificate dated 30.3.2019, the petitioner has confined his prayer for expeditious disposal of the recovery proceedings. .

It has been submitted by the petitioner that the recovery certificate against M/s Mist Direct Sales Private Limited was issued as far back as on 30.3.2019 but the same has not been executed by the respondent No. 4-District Magistrate, Gautam Budh Nagar, so far and the petitioner is being denied the fruits of the order of RERA Authorities, which was passed in his favour on 6.6.2018.

Mohd. Afzal, learned counsel representing respondent Nos. 2 & 3 submits that no fruitful purpose would be served by keeping the writ petition pending and the same can be disposed of directing the respondent No.4 to proceed with the recovery certificate.

In view of the above, the writ petition is finally ***disposed of*** with a direction to the respondent No.4, District Magistrate, Gautam Buddh Nagar, to make all endeavour to execute the recovery certificate dated 30.3.2019, as expeditiously as possible, preferably within a period of two months of serving a certified copy of this order upon him, if there is no other legal impediment.

Order Date :- 1.11.2023

Ravi Prakash

(Ashutosh Srivastava, J.) (Pritinker Diwaker, CJ)