

Court No. - 46

Case :- WRIT - C No. - 40663 of 2023

Petitioner :- Ritesh Agrawal

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Ashish Agrawal

Counsel for Respondent :- C.S.C.,Brijendra Kumar,Pawan Kumar Singh

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

This petition has been filed challenging various charges demanded by the respondent authority on the ground that such demand is not referable to section 15 of the Urban Planning and Development Act, 1973.

Reliance is placed upon a judgment of the Supreme Court in Mathura Vrindavan Development vs. Rajesh Sharma being Civil Appeal No.5645 of 2015, decided on 28.04.2023, wherein the Supreme Court has observed as under in paras 13 and 14 of the judgment:-

"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."

In the facts of the case, it is provided that the respondent authority shall not charge any amount over and above what is specified in section 15 of the Act of 1973 as also the judgment in the case of Mathura Vrindavan Development (supra). The dues payable in terms of the aforesaid provision and the adjudication shall be deposited by the petitioner within four weeks from today and the authority shall do the needful without any further loss of time.

Subject to the above observations made above, this petition stands disposed of.

Order Date :- 28.11.2023

Ashok Kr.