

**Court No. - 21**

**Case :-** WRIT - C No. - 41554 of 2023

**Petitioner :-** Virendra Pandey And 4 Others

**Respondent :-** State of U.P. and Another

**Counsel for Petitioner :-** Kriti Gupta, Jatin Kumar Mishra

**Counsel for Respondent :-** C.S.C., Anand Prakash Paul

**Hon'ble Manoj Kumar Gupta, Acting Chief Justice**

**Hon'ble Donadi Ramesh, J.**

1. Heard Ms. Kriti Gupta, learned counsel for the petitioners, Sri A.B. Paul, learned counsel for Azamgarh Development Authority (respondent no. 2) and Sri Rajeev Gupta, learned Additional Chief Standing Counsel for the State respondent.

2. The petitioners have challenged two demand notices of even date, i.e. 8.11.2023, one imposing labour cess and the other imposing impact fee and sub division charges amongst others.

3. Learned counsel for the petitioner places reliance on the judgment of Supreme Court in **Civil Appeal No. 5645 of 2015 (Mathura Vrindavan Development Authority and Another Vs. Rajesh Sharma and Others)**, decided on 28.4.2023, in support of the contention that the demand in respect of above charges is beyond the purview of the U.P. Urban Planning and Development Act, 1973.

4. Learned counsel for the parties fairly admit that certain charges which are not covered under Section 15(2-A) of the Act could not be charged in terms of the aforesaid judgment of Supreme Court, the relevant part of which is extracted below: -

24. 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, subdivision charges, impact fee etc. (other than development charges/fees) are hereby confirmed.

25. 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.

5. Having regard to the aforesaid undisputed legal position, we dispose of the instant petition in terms of the judgment of Supreme Court in **Mathura Vrindavan Development Authority** (supra).

6. It is open to the Development Authority to issue fresh notice after excluding the charges which have been held to be unsustainable in the aforesaid judgment of the Supreme Court.

**(Donadi Ramesh, J.) (Manoj Kumar Gupta, A.C.J.)**

**Order Date :- 2.12.2023**

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