

**Court No. - 4**

**Case :- CONTEMPT APPLICATION (CIVIL) No. - 1839 of 2023**

**Applicant :- Mohammad Shahab Khan**

**Opposite Party :- Sri Rajesh Kumar Tyagi, Real Estate Regulatory Authority, Lko. And Another**

**Counsel for Applicant :- Shivendra Rao,Rahul Kumar**

**Hon'ble Rajesh Singh Chauhan,J.**

1. Heard.

2. This Court has passed order dated 1.11.2023 which reads as under :

*"1. Heard learned counsel for the petitioner and Sri Amrendra Pratap Singh, learned Standing Counsel for the State.*

*2. Learned counsel for the petitioner has filed impleadment application, same is taken on record. He has also filed affidavit replying the contents of short counter affidavit, filed by opposite party no. 2, same is also taken on record.*

*3. Office is directed to allot the number to impleadment application.*

*4. Learned counsel for the petitioner has stated that the notice has not been issued to opposite party no. 1 who has now been transferred and in his place Sri Pramod Kumar Upadhyay has been posted as Secretary, R.E.R.A., Lucknow, therefore, opposite party no. 1 may be replaced by Sri Pramod Kumar Upadhyay.*

*5. In view of the contents of the aforesaid application the learned counsel for the petitioner is directed to delete the opposite party no. 1 during the course of the day and Sri Pramod Kumar Upadhyay be impleaded as opposite party no. 3 during the course of the day. Now for all practical purposes in the present contempt petition there are only two authorities namely, Sri Surya Pal Gangwar, District Magistrate, Lucknow and Sri Pramod Kumar Upadhyay, Secretary, U.P.R.E.R.A., Lucknow.*

*6. Learned counsel for he petitioner has submitted that the District Magistrate, Lucknow has wrongly stated in para 10 of short counter affidavit filed on 18.10.2023 that no money, movable or immovable property of the firm i.e. M/s. Polars Infra Developers Pvt. Ltd., Gomti Nagar, Lucknow could be traced out, therefore, the recovery certificate has been sent to the U.P.R.E.R.A.. By means of the reply the aforesaid short counter affidavit the petitioner has disclosed various properties of the firm in question with khasra numbers.*

*7. On being confronted the learned Standing Counsel as to why the short counter affidavit has been filed by the authority concerned without verifying properly the movable and immovable property of the firm in question and as to why the recovery certificate has been sent back to the U.P.R.E.R.A., Sri Amrendra Pratap Singh has stated that he shall file supplementary counter affidavit replying the contents of reply filed by the petitioner against short counter affidavit.*

*8. Be that as it may, in the present case, prima-facie, it appears that without undertaking the proper exercise to verify the movable / immovable property of the firm in question the short counter affidavit has been filed and the recovery certificate has been sent back to the U.P.R.E.R.A., therefore, after verification of the documents, so enclosed by the petitioner, in respect of movable / immovable property of the firm in question, if it is found that the firm in question is having movable / immovable property the needful exercise shall be undertaken by the*

*District Magistrate getting back the recovery certificate so that the order of the writ court could be complied with in its letter and spirit.*

9. List this case on 5.12.2023. On or before 5.12.2023 the fresh affidavit of compliance shall be filed by the opposite party no. 2 i.e. Surya Pal Gangwar, District Magistrate, Lucknow failing which he shall appear in person."

3. Sri Sunil Bajpai, learned Addl. C.S.C. has filed affidavit of compliance, same is taken on record.

4. In para 7 of the aforesaid affidavit of compliance it has been categorically indicated that a cheque of Rs. 23,36,633/- has been realized from M/s. Polars Infra Developers Pvt. Ltd. and as soon as the cheque of aforesaid amount is cleared the amount will be sent to U.P.R.E.R.A., Lucknow. Thereafter, the petitioner may approach the U.P.R.E.R.A., Lucknow for getting the amount in question in terms of the order of the writ court.

5. In the wake of aforesaid development nothing remains to be adjudicated by this Court in this writ petition.

6. Accordingly, the contempt petition is **dismissed**.

7. Notices discharged.

8. However, it is always open for the petitioner to file any application in the Court, if the cheque in question bounces.

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**[Rajesh Singh Chauhan, J.]**

**Order Date :- 5.12.2023**

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