

Court No. - 3

Case :- WRIT - C No. - 27458 of 2021

Petitioner :- Pramila And Anr.

Respondent :- State Of U.P. Prin.Secy.Urban Planning And Development And Ors.

Counsel for Petitioner :- Shobhit Nigam

Counsel for Respondent :- C.S.C., Ram Ratan, Ratnesh Chandra, Shishir Jain

Hon'ble Vivek Chaudhary, J.

Hon'ble Manish Kumar, J.

1. Heard learned counsel for the petitioners, learned Standing Counsel for the State and Sri Ratnesh Chandra, learned counsel for the Lucknow Development Authority.

2. The present writ petition has been preferred by the petitioners for issuing direction to the respondent no. 2 to 4 to release the amount of Rs. 56,18,784/- in favour of the petitioners for the acquisition of petitioners' Plot No. C-4/72, Sector- O, measuring 130 square meter (1400 sq. feet) situated at Mansarowar Kanpur Road Scheme, Lucknow by means of a registered sale deed on 13.09.2021.

3. Learned counsel for the petitioner has submitted that the opposite parties had floated a Scheme for sale of the plots in Mansarowar Scheme, Kanpur Road, Lucknow, in which the petitioners had booked a plot. After booking of the said plot in the aforementioned Scheme, the petitioners were declared successful and were allotted a plot bearing No. C-4/72, C-Type Plot in Sector-O, vide order dated 22.04.2006, a payment plan was also mentioned.

4. It is further contended that after the allotment letter, the petitioners started making payment of the installment of the plot as per the payment schedule. After receiving the entire amount of the sale consideration, the opposite parties had executed a registered sale deed in favour of the petitioners which was registered on 21.07.2009 and the physical possession was handed over to the petitioners.

5. It is further submitted that there was a plan to raise a fly-over on Amar Shaheed Path to Chowdhary Charan Singh Airport to provide alternate way, for which opposite parties had decided to provide land for raising flyover on 12.07.2021, for which the opposite parties had asked the petitioners for acquisition of their plot. The opposite parties had asked the petitioners to execute the sale deed in their favour for a total sale consideration of Rs. 56,75,540/-.

6. Considering the need of the opposite party Nos. 2 to 4, petitioners had agreed to sell/transfer the said property in favour of opposite party nos. 2 to 4. The sale deed was executed in favour of opposite party no. 2 i.e. Prabhari Adhikari Sampatti, L.D.A., Lucknow, which has been registered on 13.09.2021 and a Bank Draft No. 321760 dated 10.09.2021 of Rs. 56,18,784/- was handed over to the petitioners.

7. It is further submitted that when the petitioners approached the Bank for encashment of the demand draft, it was denied by the Bank and returned the draft with an endorsement 'contact drawer'. The drawer i.e. L.D.A. after execution of the sale deed cannot direct the Bank not to make payment against the demand draft. It is submitted that such a direction issued by the L.D.A./purchaser of the land of the petitioners is nothing but a fraud upon the petitioners.

8. On the other hand, learned counsel for the L.D.A. on the basis of the counter affidavit particularly paragraph 11 of the counter affidavit, has submitted that firstly, there is a difference in the name of the petitioner in the demand draft and secondly, the land is the pond land.

9. Paragraph 11 of the counter affidavit, reads as under:-

"11. That immediately after execution of the sale deed and after handing over the demand draft to the petitioners, it was found that there is a difference in the name endorsed in the demand draft and the name endorsed on the E-Stamp paper. The name shown on the E-Stamp paper was 'Mrs. Prmila' whereas in the draft it was written as 'Pramila'.

It was therefore decided to request the bank from not making payment against said demand Draft till the necessary correction is made as huge amount was involved. Before taking said decision, legal opinion was also obtained on the basis of which said decision was taken. While the said exercise was being undertaken the Court of Sub-Divisional Magistrate, Tehsil-Sarojni Nagar, Lucknow vide its Judgement dated 07/10/2021 corrected the entry in respect of Gata no. 1018 measuring 0.60 Hectares, Gata no. 1019 measuring 0.089 Hectares and Gata no. 1021 measuring 0.076 Hectares by deleting the name of LDA and endorsing the land to be Talaab/Pond as the same was earlier recorded as Talaab/Pond. A copy of Judgment dated 07/10/2021 is being filed herewith as Annexure CA-3 to this counter affidavit."

10. After hearing learned counsels for the respective parties and going through the record of the case, it is undisputed fact that the same land was allotted and transferred to the petitioners by the L.D.A. after accepting the consideration of the same and subsequently, when the L.D.A. had purchased same land from the petitioners, now have come with a case that the land is a pond land. For the same land, two different stands are not permitted to be taken i.e. at the time of allotting the land in favour of the petitioners, the L.D.A. did not say that it was a pond land but after purchasing the same land, after the execution and registration of the sale deed directing the Bank not to

make payment as the land is a pond land is nothing but depriving the petitioners from their lawful claim of payment of consideration of the land which has been purchased by the L.D.A. The L.D.A. till date has not adopted any procedure for cancellation of the sale deed executed by the petitioners in favour of the L.D.A. The sale deed is still in existence. The difference in name has nothing to do with the L.D.A. If there was any mistake, it was for the Bank to raise any objection.

11. The conduct of the L.D.A. in stopping the payment of sale consideration after transfer of land in favour of L.D.A. by the petitioners by a registered sale deed dated 13.09.2021, is highly objectionable and lacks bonafide. the objections of the respondent-L.D.A. were flimsy and not tenable under the law. They could not blow hot and cold at the same time as discussed above.

12. The L.D.A. is directed to make payment of Rs. 56,75,540/- as per the registered sale deed dated 13.09.2021 with 7 % interest from the date of registration of the sale deed, till the payment is actually made. It is further directed that the payment shall be made within a period of two months.

13. In the result, writ petition is allowed.

(Manish Kumar, J.) (Vivek Chaudhary, J.)

Order Date :- 31.10.2023

Nitesh