

Court No. - 8

Case :- WRIT - C No. - 10571 of 2023

Petitioner :- Vardhaman Infradevelopers Pvt. Ltd. Company Thru.
Authorised Signatory Shri Abhijit Sarkar

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Infrastructure And
Industrial Development,Lko. And 2 Others

Counsel for Petitioner :- Mudit Agarwal,Nidhi Agarwal

Counsel for Respondent :- C.S.C.,Waseeq Uddin Ahmed

Hon'ble Pankaj Bhatia,J.

1. Heard Shri J.N. Mathur, learned Senior Advocate assisted by Shri Mudit Agarwal, learned counsel appearing for the petitioner and Shri Waseeq Uddin Ahmed, learned counsel appearing for respondent no.3.

2. Present petition has been filed challenging the order dated 01.09.2023 whereby the revision preferred by the petitioner under Section 41 of U.P. Urban Planning and Development Act read with Section 12 of U.P. Industrial Area Development Act was dismissed.

3. The facts, in brief, are that the petitioner was allotted a land some times in the year 2010. In terms of the said allotment and subsequent execution of the lease deed, it was incumbent upon the petitioner to pay the premium amount which the petitioner did not pay within time mainly on the ground that the petitioner was of the view that the entire land which was sought to be given possession of, was not given on account of pending litigation with the farmers from whom the land was acquired. It bears from record that the petitioner had also applied for consideration of benefit of extension of zero period policy of the respondents - authority wherein the petitioner claimed the benefit of zero period policy for the tenure 2012 - 16.

4. It is argued by learned Senior Advocate appearing for the petitioner that no orders were passed on the application for grant of benefit of zero period policy and ultimately, an order came to be passed on 20.07.2022 cancelling the allotment made in favour of the petitioner. In the said order, it was mentioned that the petitioner has defaulted in payment of premium amount quantified at Rs.24,72,71,392.00/- on which the interest overdue was quantified at Rs.18,54,53,553.60/-, thus, the total amount payable quantified against the petitioner was said to be Rs.43,27,24,945.60/-. In the said cancellation order, it was stated that as the overdue amount as quantified against the petitioner have not been paid, in terms of the provisions of the

lease deed, the lease was liable to be cancelled. The said amount was calculated based upon the conditions stipulated in the lease deed that the amount had to be deposited within a period of nine years.

5. The petitioner challenged the said cancellation order by filing a revision. Learned Senior Advocate appearing for the petitioner contends that no adequate notice was given to the petitioner before hearing and in fact, the petitioner was informed in the morning about the date fixed for hearing and although the petitioner was permitted to join through video link, the said opportunity cannot be termed as an adequate opportunity of hearing. He further argues that the specific assertion of the petitioner that the application for extension of zero period policy was not considered by the respondents - authority has been ignored while dismissing the revision. He further argues that the amount mentioned in the revisional order allegedly due and payable by the petitioner has no foundation.

6. To demonstrate that the amount mentioned in Para - 17 of the impugned order is on the face of it erroneous, he draws my attention to the lease cancellation order which quantifies the amounts allegedly payable by the petitioner. In the light of the said, Shri J. N. Mathur, learned Senior Advocate argues that on the one hand the home buyers are agitating and taking up proceedings against the petitioner, on the other hand, the respondents - authority has taken a harsh view without considering the grievances raised by the petitioner from time to time. He further argues that some of the home buyers sought impleadment before the revisional Court, however, they were also not heard.

7. Learned counsel appearing for the respondents - authority, on the other hand, argues that ever since the date of allotment, the petitioner had failed to adhere to the financial discipline of payment of installments as were indicted and required under the allotment order as well as the lease deed and thus, the respondents - authority has rightly exercised the powers flowing out of the lease deed and cancelling the allotment and the lease.

8. In terms of the arguments advanced and recorded above, a proposal was given by learned Senior Advocate appearing for the petitioner that the petitioner is ready and willing to deposit the amount of Rs.43,27,24,945.60/- if some reasonable time is given to the petitioner. He offers to pay an amount of Rs.10 crore upfront within one month from today, an another amount of Rs.10 crore within another one month from today and the balance amount out of the total dues of Rs.43,27,24,945.60/- within a period of six months which should be subject to the

rights of the parties finally decided.

9. He prays that request of the petitioner for consideration of benefit of zero period policy should be considered by the petitioner afresh and in accordance with law.

10. Learned counsel for the respondent no.3, on instructions, states that in case an application is filed for grant of zero period policy, the authority shall decide the same in accordance with law against which the petitioner/the authority would have the opportunity of approaching revisional Court.

11. In the light of the said, the present petition is ***disposed off*** directing the petitioner to deposit an amount of Rs.10 Crore upfront with the respondent no.3 - authority on or before 15.01.2024.

12. On deposit of the said amount, the petitioner would be at liberty to file an application for grant of benefit of zero period policy.

13. The petitioner shall thereafter deposit a further amount of Rs.10 Crore with respondent no.3 - authority on or before 15.02.2024.

14. On deposit of the second installment, the respondent no.3 - authority shall consider and pass appropriate orders on the application of the petitioner for grant of zero period policy within a period of one month i.e. by 31.03.2024.

15. Both the parties would be at liberty to avail their remedies of revision against the order to be passed by respondent no.3 - authority on request for grant of zero period benefits.

16. The petitioner would, however, be required to pay the balance amount of Rs.23,27,24,945.60/- on or before 30.06.2024.

17. The amounts so deposited shall be subject to the outcome of the litigation in between the parties.

18. The revisional Court, in case approached against an order of respondent no.3 - authority, shall decide the revision only when the balance amount of Rs.23,27,24,945.60/- is deposited by the petitioner.

19. On the failure of the petitioner to deposit the amounts of Rs.10 Crore directed to be deposited on before 15.01.2024 and 15.02.2024, respondent no.3 would not consider the application of the petitioner for grant of zero period policy and the

respondent no.3 - authority would be at liberty to take such steps as may be advised under law against the petitioner.

20. It is clarified that the amounts directed to be deposited are to balance the equities and are in no way adjudication of the amounts due and payable by the petitioner and as claimed by respondent no.3 - authority.

21. The final orders to be passed as directed above shall supersede the order dated 20.07.2022 and order dated 01.09.2023.

Order Date :- 13.12.2023

nishant