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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8794/2014 & CM No.20193/2014 (for stay)

M/S. SAFAQUAT & VIRENDER KUMAR & CO...... Petitioner

Through: Mr. Abhishek Goyal, Adv.

versus

GOVT OF NCT OF DELHI & ANR. ..... Respondents

Through: Mr. Kapil Joshi & Mr. Arun S. Bharti, Advs.

Mrs. Avnish Ahlawat, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

<u>O R D E R</u>

% 24.09.2015

1. The petition impugns the Final Demand notice dated 14th November, 2014 issued by the respondent No.2 Agricultural Produce Marketing Committee (APMC) to the petitioner, directing the petitioner to on or before 14th December, 2014 deposit Rs.6,72,315/- towards the price / consideration of Shop No.117 allotted the petitioner in fruit and vegetable market Keshopur, New Delhi and intimating to the petitioner that upon the failure of the petitioner to make such deposit the allotment of the shop shall be cancelled without any further notice.

2. The petition came up before this Court first on 12th December, 2014 when the respondents were restrained from cancelling the allotment of the shop in question subject to the petitioner depositing a sum of Rs.2,00,000/-

with the respondent within a period of four weeks from that date; the said amount has been deposited.

3. It is the case of the petitioner, i) that he was allotted the aforesaid shop vide allotment letter dated 7th August, 2000; ii) that it has been making representations to the respondent No.2 APMC for grant of time to deposit the price of the shop; iii) that the respondent No.2 APMC vide notice dated 11th September, 2014 relaxed the payment schedule; iv) that however vide impugned notice dated 14th November, 2014, the demand as aforesaid was raised; and, v) that owing to the small scale business of the petitioner of sale of vegetables and fruits, the petitioner is unable to deposit the demanded amount within the time granted by the respondent No.2 APMC.

4. A perusal of the letter dated 7th August, 2000 of allotment of the shop shows that the petitioner was given an option to either deposit the price of the shop of Rs.2,50,000/- in lumpsum within 15 days of the letter of allotment or make payment with interest in 40 equal quarterly installments. It was also a term of the said allotment that upon failure to make the payment as stipulated, the allotment shall be cancelled. A perusal of the notice dated 11th September, 2014 relied upon by the petitioner discloses that though the petitioner was in default, but on 13th June, 2013, as a one

time gesture, the petitioner was given another six months, as a final opportunity, to clear the dues and was informed that upon failure to so clear the dues, allotment of shop shall be deemed to be cancelled and possession recovered.

5. The petitioner did not avail of the said opportunity also and has not made the payment till date inspite of 15 years having elapsed.

6. The respondent No.2 APMC, notwithstanding the allotment in favour of petitioner having so stood cancelled, vide impugned notice dated 14th November, 2014 gave another opportunity to the petitioner to clear all the dues by 14th December, 2014.

7. Significantly, the petitioner has not challenged the price or the terms and conditions stipulated. Rather, till the time possible, the petitioner took advantage of the latitude of the respondent No.2. The petitioner now expects a similar latitude from this Court of another 15 years.

8. The counsel for the petitioner, neither in the petition nor in the arguments, has made out any ground for extension of time to deposit the said amount. The only argument of the counsel for the petitioner is that in a similar case being W.P.(C) No.7872/2014 titled ***Sunita Sharma Vs. Govt. of NCT of Delhi*** vide order dated 6th January, 2015, time was granted.

9. A perusal of the aforesaid order does not show the same to have adjudicated any question of law or fact, to be treated as a precedent. This Bench would be bound by judgment of a Co-ordinate Bench, only if the same was to constitute a precedent; else, latitude shown in one case cannot be a precedent for latitude in other cases to follow.

10. It may be noticed that the terms of allotment were in terms of a policy and in accordance with which policy, applications were invited for allotment of the subject shops. The persons applying for the shops were informed of the price / consideration thereof and the time in which it had to be paid. It can safely be assumed that a number of persons may not have applied considering themselves unable to pay the price / consideration within the time stipulated. If they had known that instead of payment being required to be made within stipulated time, it can be made over a period of 15 years, the others who may have been prevented from applying for allotment owing to non availability of financial resources, may have also participated in the process of allotment and had they done so, the petitioner may not have been found successful for allotment, the number of shops available being limited. The petitioner, after having accepted the allotment on the terms thereof cannot resile therefrom. The Courts, if start interfering in such policy and

fiscal decisions, without any legal grounds whatsoever and on grounds of sympathy, which for reasons aforesaid is misplaced, would be weakening the system of governance and the rule of law and encouraging those with propensity to break laws and breach contracts and to the prejudice of those who abide by laws and the contracts.

11. This Court is everyday receiving petitions from other persons desirous of shops in the said market and who are being denied shops for the reason of non availability thereof.

12. Rather, the challenge by the petitioner to the demand notice dated 14th November, 2014, which is in terms of letter of allotment, shows that the petitioner is resiling from the allotment while continuing to enjoy the possession of the said shop.

13. There is thus no merit in the petition which is dismissed. However, notice of petition having been issued and interim order also having been granted, subject to the petitioner depositing the entire balance payment with upto date interest on or before 31st October, 2015, the time for payment shall be extended till then. If the petitioner does not deposit the entire amount on or before 31st October, 2015, the respondents shall be free to proceed with the consequences including cancellation of the allotment in favour of the

petitioner together with disconnection of electricity supply and dispossession of the petitioner and allotment of the said shop to the next eligible person.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 24, 2015
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