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

+ W.P.(C) 3884/2016

SYNDICATE BANK

..... Petitioner

Represented by: Mr.Suresh Arora, Advocate with
Ms.Reena Malhotra Jain, Advocate

versus

ANAND PRASAD & ANR

..... Respondents

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **05.05.2016**

CM No.16475/2016

Allowed subject to just exceptions.

W.P.(C) No.3884/2016

1. There is no merit in the writ petition for the reason the so-called document of title on strength whereof the writ petitioner-bank claims that property was mortgaged to it comprised a letter of allotment by M/s.Bayana Promoters and Builders in favour of Mrs.Krishna Chopra. A letter of allotment by a builder is not a document by title.
2. When sought to be sold to enforce the mortgage, objections filed by Anand Prasad and Aarti Prasad succeeded because the original owner Brig.H.L.Sodhi sold the property under a sale-deed dated March 19, 2001 to Smt.Krishna Chopra who in turn sold the same to the objectors. It is apparent that the owner had entered into a collaboration agreement with a

builder. The builder issued the letter of allotment in favour of Krishna Chopra in whose favour the original owner later on directly executed a sale-deed. The appellant remained negligent in not ensuring that the sale-deed was handed over to it. In any case, a letter of allotment is not a title document and by deposit thereof no mortgage can be created.

3. We concur with the view taken by the DRT and DRAT that the objectors were bona-fide purchasers who carried out a title search of the subject property and the physical possession of the title document of Krishna Chopra was with her when she sold the property to them, was proof that not even an equitable mortgage had been created.

4. The writ petition is dismissed in limine.

5. No costs.

CM No.16474/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MAY 05, 2016

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