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

\+ W.P.(C) No.11256/2015 & CM No.29349/2015 (for stay).

DEEPAK KUMAR BHANDARI AND ORS ..... Petitioners

Through: Mr. R.S. Rana and Ms. Monika Rana, Advs.

Versus

DELHI DEVELOPMENT AUTHORITY AND ORS ..... Respondents

Through: Mr. Dhanesh Relan with Ms. Akshita Manocha and Ms. Isha Garg, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

% 18.05.2016

1. The three petitioners namely Shri Deepak Kumar Bhandari, Shri Pushkar Bajpayee and Pearls Omaxe Complex Allottees Welfare Association (Recognised) have filed this petition (i) seeking mandamus to the respondent no.1 Delhi Development Authority (DDA) to register the Deed of Apartment with respect to the apartments in the multi-storied building known as Pearls Omaxe Commercial Complex at plot no.B-1, District Center, Wazir Pur, Netaji Shubhash Place, Delhi; (ii) seeking to restrain the respondents no.2&3 M/s P.G.F. Limited and M/s Omaxe Construction Ltd. from illegally interfering in the maintenance by the petitioner no.3 Association of the common areas and services in the said multi-storied building; and, (iii) seeking a direction to the respondents no.2&3 to handover maintenance of common areas and amenities in the said multi-storied building to the petitioner no.3 Association.

2. Though the petition has been listed on several occasions but notice thereof has not been issued as yet.

3. As far as the latter two reliefs aforesaid are concerned, that are private disputes between the petitioners and the respondents no.2&3 and cannot be subject matter of a writ petition and the petitioners with respect thereto will have to avail of appropriate proceedings by way of a suit or arbitration, as may be maintainable.

4. As far as the first of the aforesaid reliefs is concerned, the same is in accordance with the judgments dated 28th May, 2010 and 13th July, 2012 of the Division Bench of this Court in ***O.S. Bajpai Vs. The Administrator LT. Governor*** reported as 172 (2010) DLT 442 and 194 (2012) DLT 138 respectively. I have as such enquired from the counsel for the respondent no.1 DDA appearing on advance notice as to why the respondent no.1 DDA, is not acting in accordance with the said judgments in ***O.S. Bajpai.***

5. The counsel for the respondent no.1 DDA states that the respondent no.1 DDA has already issued two notices to the builder of the said multi-storied building and to whom the land underneath the same was allotted, to furnish the documents to enable the respondent no.1 DDA to execute the Deeds of Apartment but the builder has not responded thereto.

6. I am of the opinion that even if it be so, the respondent no.1 DDA cannot wait indefinitely in the matter and make its action dependent upon the replies of the builders of multi-storied buildings who may not be left with any interest in the land or the building or in responding to the notices. The respondent no.1 DDA in such circumstances will have to devise further ways and means including of having the buildings independently surveyed,

prepare floor plans thereof showing the total area and the area of each flat/apartment, the name of the apartment owner and the computation of the dues to be recovered from each apartment owner as per its measurements and recover the same as a condition for execution of Deeds of Apartment.

7. On enquiry, the counsel for the petitioner states that the builder only is carrying out maintenance of common areas and amenities in the building and profiteering therefrom.

8. It shall be open to the DDA to also take appropriate steps to either take over the maintenance of common areas and amenities or to vest the same in any other agency.

9. The petition is thus disposed of with a direction to the respondent no.1 DDA to undertake the aforesaid exercise; since the position of law on the subject is at a nascent stage, it is not deemed expedient to fix any time limit to undertake such exercise but suffice it is to observe that the respondent no.1 DDA would do the same in a reasonable time and not give any occasion to the petitioners to approach this Court again.

No costs.

RAJIV SAHAI ENDLAW, J.

MAY 18, 2016
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