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

+ LPA 488/2017 & CM APPL. 25773-25776/2017

RITU GULATI

..... Appellant

Through: Mr. Sitab Ali Chaudhary, Adv.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. Pawan Mathur, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER
11.08.2017

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The appellant has preferred the present appeal to assail the order dated 11.01.2017 passed in W.P. (C.) No. 9383/2014, whereby the said writ petition had been dismissed on the ground that the appellant is seeking to re-litigate the issues which had been closed with the unconditional withdrawal of his earlier writ petition.

The appellant has preferred three rounds of writ petitions. In the first round i.e. W.P. (C.) No. 4211/2013, the writ petition preferred by the appellant was disposed of with the quashing of the cancellation order dated 08.08.2007 passed against the appellant with a further direction to the DDA to consider the case in the light of the policy of the DDA for restoration and

also consider the reply to show cause notice filed by him. It was also directed to grant him a personal hearing, whereafter the competent authority was required to pass a reasoned order in accordance with law within a period of three months. In pursuance to this order, the appellants representation was considered and a fresh order was passed on 22.01.2013 – again, cancelling the appellants allotment. This cancellation was assailed by the appellant by preferring W.P. (C.) No. 4211/2013. On 08.07.2013, after some arguments, the petitioner unconditionally withdrew the said writ petition and the applications. The court, in these circumstances, directed the DDA to refund the amount deposited by the appellant within a period of eight weeks in accordance with its policy after completion of requisite formalities by the petitioner/ appellant.

Thereafter, the appellant made a representation on 06.08.2013 to the respondent, which was rejected on 18.12.2013. Being aggrieved, the appellant preferred a third writ petition i.e. W.P. (C.) No. 9383/2014, in which the impugned order has been passed by the learned Single Judge.

The learned Single Judge has held that having withdrawn the second writ petition unconditionally, merely by making a further representation and receiving a rejection in respect thereof, would not give a fresh cause of action to the appellant to re-litigate the cancellation of his allotment.

The submission of counsel for the appellant is that the subsequent order was not passed by the competent authority. If it were so, it was open to the appellant to pursue his second writ petition and advance the said submissions before the court. It is clear from the order passed in the second writ petition that the appellant unconditionally withdrew the same after hearing. He was also conscious of the fact that the court had directed the

refund of the amount deposited by him. Thus, the issues stood completely closed and there was no scope for making a further representation. By making a further representation and receiving a response thereof, the appellant did not acquire another cause of action. The appellant could not have re-agitated or re-litigated the same issue before the court in these circumstances. The second writ petition was clearly barred on the principles laid down under Order 23 Rule 1 CPC.

We find no merit in this petition. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 11, 2017

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