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

+ LPA 329/2017, CM APPL.16803, 16805 & 29695/2017

DELHI DEVELOPMENT AUTHORITY ..... Appellant  
Through: Mr. Sanjeev Sagar with Mr. Navin Arora,  
Advocates.

versus

NAMGYAL INSTITUTE FOR RESEARCH ON LADAKHI ART &  
CULTURE & ORS. .... Respondents  
Through: Mr. Lalit Gupta with Mr. Siddharth,  
Advocate for Resp-4.  
Mr. Anuj Aggarwal with Ms. Deboshree Mukherjee,  
Advocates for Resp-3.

**CORAM:**  
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**  
**HON'BLE MR. JUSTICE SUNIL GAUR**

% **ORDER**  
**21.08.2017**

This appeal essentially seeks from the Court to set aside the orders made in review proceedings.

The appellant DDA contends that the deposit of ₹10,34,06,259/- made by the fifth respondent cannot be treated as one having been made in the writ petition which sought for setting aside of the cancellation/re-entry of the lease deed in favour of the writ petitioner, i.e., respondent no.1 (hereafter referred to as NIRLAC). NIRLAC had approached the Court questioning the cancellation and re-entry of the lease deed which was granted to it. The fifth respondent (M/S. Turner Morrison Land Limited), hereafter referred to as “occupant” was impleaded. At one

stage of the proceedings, the occupant had offered to deposit the misuse charges alleged to be outstanding by the DDA on behalf of the petitioner, but without prejudice to its contentions. According to it, the deposit was to be part of the understanding that the property would be de-sealed and its possession handed over to it.

Counsel for the DDA took this Court through various orders made in the course of the previous proceedings including the order made in the previous appeal. According to the DDA, since the amount was never deposited by the writ petitioner - NIRLAC, nor did it take any step for restoration of the lease, the question of handing back the property or de-sealing it did not arise. The respondent, i.e., lessee and Turner Morrison Land Limited obviously contend to the contrary and relied upon the averments made by the DDA in CM APPL.5059/2015; besides, the DDA's letter of 14.11.2014 is also relied upon.

Learned Single Judge who considered the entirety of circumstances, had upon an application made earlier, i.e., CM APPL.13722/2015 passed an order, recording that since DDA was nevertheless to de-seal the property immediately and the petitioner did not object to the amount being refunded, the same had to be refunded within four weeks. The DDA sought for recall of the order by preferring CM APPL.11495/2017. It is quite apparent that this rethink by the DDA was much later. In the present appeal, the DDA vehemently argues that since the NIRLAC did not deposit the amount and did not actively take any step for restoration of the lease, the question of either refund or handing over possession does not arise.

This Court notices that the proceedings have been pending before the learned Single Judge for over 11 years. In the meanwhile, on certain interim orders, parties have approached this Court. Even contempt

proceedings were sought to be initiated. All that has been done by the impugned order is to decline the request of the DDA to review or go behind the previous order. This Court is not oblivious of the fact that the order was made much before the present application CM APPL.11495/2017 was made. We have also perused the order of the Court dated 18.04.2017 in Contempt Case No.35/2017. More importantly, the direction to repay the amount in the present case is in line with the DDA's own understanding that the misuse charges should be deposited by the petitioner. In these circumstances, the rationale adopted by the Single Judge to recuse the recall of his previous order is not unreasonable.

The appeal is, therefore, dismissed along with pending applications.

Consequently, the amount deposited pursuant to the order of this Court dated 18.05.2017 in these proceedings shall be made over/paid to M/s. Turner Morrison Land Limited.

Parties are directed to be present before the concerned Registrar for this purpose on 1<sup>st</sup> September, 2017.

**S. RAVINDRA BHAT, J**

**SUNIL GAUR, J**

**AUGUST 21, 2017**

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