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

+ **LPA 786/2017**

USHA AGGARWAL

..... Appellant

Through: Mr Digvijay Rai and Mr Pulkit
Tyagi, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ORS

..... Respondents

Through: Mr Arjun Pant, Advocate for
R-1/DDA.
Mr Siddharth Duta, Advocate
for R-3 with Sub-Inspector Mr
Manish Yadav, P.S.Vasant
Kunj.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **13.12.2017**

CM No.45256 /2017(exemption)

Allowed, subject to all just exceptions.

**LPA 786/2017 & CM Nos.45255/2017(interim),
45257/2017(exemption from signature on appeal and
affidavit)**

1. Issue notice. Mr Arjun Pant, Advocate accepts notice for
respondent No.1/DDA. Mr Siddharth Dutta, Advocate accepts
notice for respondent No.3.

2. With the consent of the learned counsel for the parties, the Appeal was heard for disposal finally.
3. The Appellant is aggrieved by the directions issued in the impugned judgment, whereby even by holding that the relief claimed, i.e. for alternative allotment in lieu of the Flat bearing No.4072, First Floor, Pocket-4, Sector-C, Vasant Kunj, New Delhi (hereafter referred to as 'the suit property'), could not be granted, directed the registration of Police investigation and further criminal proceedings against the Appellant/Writ Petitioner.
4. The Writ Petitioner's grievance was that she was an original allottee of the suit property and that the title to that property, however, became the subject-matter of another individual's claim for possession.
5. The petitioner claimed that the possession of the property was given by DDA on 08.04.1997 and later when she found the second respondent in occupation, apparently, Criminal Complaint (FIR No.87/2016, PS Vasant Kunj was lodged.
6. The learned Single Judge, after noticing the submissions of the parties and also perusing the documents produced, was of the opinion that criminal action was necessary against the Appellant for making the misleading statements before the Public Authorities and the Court.
7. The learned Single Judge, therefore, directed the Deputy Commissioner of Police (South) to take necessary consequential action.

8. After hearing counsel for the parties, this Court is of the opinion that in a writ proceeding, even while holding that the claimed relief could not be granted on the basis that it involved examination of disputed questions of fact, the Single Judge could not have proceeded to facially record observations that have prejudicial connotation.

9. In the present case, the direction issued to the D.C.P.(South) to take necessary action, in our opinion, was not warranted, given that earlier the basis for refusal of relief was that adjudication of disputed questions of fact was involved.

10. In these circumstances, the later part of the directions to the D.C.P.(South) to take necessary action and proceed further are hereby deleted.

11. Furthermore, observations made by the Court with respect to the petitioner's conduct shall, in no way, caste a reflection on the merits of her claims, if any, made before the appropriate forum or Court in accordance with law.

12. The Appeal is allowed partly in the above terms.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 13, 2017

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