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HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 4155 of 2006**

K. P. Khosla, S/o Late Gurubax Rai Khosla, aged about 61 years, C/o
Lalit Ahluwalia, 29 South Avenue, Choubey Colony, Raipur (C.G.)

---- Petitioner**Versus**

Raipur Development Authority, Through Chief Executive Officer,
R.D.A. Building, G.E. Road, Raipur (C.G.)

---- Respondent

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- For Petitioner : Mr. Neelabh Dubey, Advocate.
 - For Respondent : Mr. Ashish Shrivastava with Mr. Pankaj Agrawal
and Ms. Medha Shrivastava, Advocates.
 - Mr. Abhijeet Singh, C.E.O., Raipur Development Authority.
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Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****12/07/18**

1. The petitioner is a Scientist retired from Vikram Sarabhai Space Centre at Thumba, Kerala in November, 2004. The petitioner's application for allotment of plot under the Katora Talab Scheme of Raipur was considered by the Raipur Development Authority and on 27.04.1983 the transfer of Plot No. C-189/5 was allowed subject to payment of Rs.15,740/- and he was directed to make payment of the said amount by 25.05.1983 but anyhow the said amount was deposited by the petitioner on 10.06.1983 and the receipt was also issued in favour of the petitioner but no plot was registered in his favour and ultimately on 16.06.2006, the notice was issued to him for depositing Rs.11,42,400/- upto 30.06.2006 against which this writ petition has been filed by the petitioner for quashing of the demand notice

and for registration of Plot No. C-189/5 in his favour.

2. Mr. Neelabh Dubey, learned counsel appearing for the petitioner would submit that the petitioner has deposited the amount of Rs.15,740/- with delay of 15 days but till this date, despite repeated approach to the respondent authority, lease deed has not been registered in his favour and further demand of Rs.11,42,400/- has been made which is contrary to law and, therefore, the order Annexure – P/6 be quashed and the respondent be directed to register the lease deed in his favour.

3. Mr. Ashish Shrivastava, learned counsel appearing for the respondent would submit that the petitioner after depositing the said amount on 10.06.1983 neither approached the authority nor took any steps to get registration of the lease deed in his favour as he did not submit any stamp paper for registration as directed on 27.04.1983 and, therefore, the authority has now decided to allot the same but subject to depositing the amount at the market rate of Rs.480 per square feet along with other fee which has been challenged and as such the petitioner is not entitled for registration of lease deed without depositing the amount of Rs.11,42,400/- in the account of the respondent authority and the writ petition deserves to be dismissed.

4. I have heard learned counsel for the parties, considered their rival submissions made herein above and gone through the records with utmost circumspection.

5. The case of the respondent is that despite the notice dated

08.09.1992, the petitioner did not appear before the authority along with the requisite stamp paper and thereby waived his right to get the lease deed registered in his favour.

6. Mr. Neelabh Dubey has invited my attention to para 5.10 of the writ petition in which he has stated that immediately after payment of premium by the petitioner the subject plot was allotted to one Mr. Shiv Kumar Shukla on 02.07.1983 and on account of some dispute, the interim order was granted to Mr. Shukla by the jurisdictional Court and only in the year 1995-96 when the said petition was dismissed then only the subject plot became available to the petitioner for registration while he remained posted as Scientist in Kerala and immediately after his retirement he persuaded the respondent authority to get the lease deed registered but all gone in vain and he received notice dated 16.06.2006. Para 5.10 of the petition has not been disputed in the return filed by the respondent authority way back on 12.01.2007. Thus, it is clear that the petitioner was helpless on account of pendency of the dispute with regard to the said plot which was due to the fault on the part of respondent Authority, so it cannot be held that it is the inaction on the part of the petitioner to get the lease deed registered in his favour.

7. Now coming to the merits of the matter, it is pertinent to mention here that on 27.04.1983 the petitioner was directed to deposit Rs.15,740/- and upon that lease deed was to be executed in his favour which he deposited with some delay on 10.06.1983 but thereafter, the Authority on 22.01.1987 issued notice to the petitioner proposing some other land at the rate of 11

Rupees per square feet and even in the notice dated 08.09.1992 it was not informed for registration of lease deed in his favour. This is for the reason that on 22.01.1987, the Corporation has already proposed some other land at the rate of 11 Rupees per square feet and thereafter, on 16.06.2006 again Rs.11,42,400/- has been demanded.

8. In the considered opinion of this Court once the full amount against the subject plot for registration of the lease deed has been deposited, it was the duty on the part of the respondent authority to get the lease deed executed in favour of the petitioner which the respondent authority has not done. As the Raipur Development Authority is a State within the meaning of Article 12 of the Constitution of India therefore, the Authority must act fairly and should not take the technical plea to defeat the right of the petitioner, who is a senior citizen and retired scientist.

9. In the case of **Rajendra Shankar Shukla and Others v. State of Chhattisgarh and Others**¹, the Supreme Court has observed in para 32 as under :-

“32. Further, this Court has frowned upon the practice of the Government to raise technical pleas to defeat the rights of the citizens in *Madras Port Trust v. Hymanshu International*² wherein it was opined that it is about time that Governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens. Para 2 from the said case reads thus: (SCC p. 177)

1 (2015) 10 SCC 400

2 (1979) 4 SCC 176

“2. We do not think that this is a fit case where we should proceed to determine whether the claim of the respondent was barred by Section 110 of the Madras Port Trust Act (2 of 1905). The plea of limitation based on this section is one which the court always looks upon with disfavour and it is unfortunate that a public authority like the Port Trust should, in all morality and justice, take up such a plea to defeat a just claim of the citizen. It is high time that Governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens and do what is fair and just to the citizens. Of course, if a Government or public authority takes up a technical plea, the court has to decide it and if the plea is well founded, it has to be upheld by the court, but what we feel is that such a plea should not ordinarily be taken up by a Government or a public authority, unless of course the claim is not well founded and by reason of delay in filing it, the evidence for the purpose of resisting such a claim has become unavailable. Here, it is obvious that the claim of the respondent was a just claim supported as it was by the recommendation of the Assistant Collector of Customs and hence in the exercise of our discretion under Article 136 of the Constitution, we do not see any reason why we should proceed to hear this appeal and adjudicate upon the plea of the appellant based on Section 110 of the Madras Port Trust Act (2 of 1905).”

10. In view of the aforesaid discussion, I am of the considered opinion that despite the fact that the respondent is enjoying the money of the petitioner since 10.06.1983, he has failed to perform its duties by registering lease deed in favour of the petitioner which is clearly arbitrary apart from sheer inaction on the part of the respondent authority and the notice issued vide Annexure – P/6 was only issued in order to defeat the legitimate right of the petitioner and to make money which is a sheer inaction and gross negligence on their part which cannot be countenanced.

11. As a fallout and consequence of the aforesaid discussion, the order

Annexure – P/6 is hereby quashed and the respondent authority is directed to register the lease deed of Plot No. C-189/5 at Katora Talab scheme of Raipur in favour of the petitioner subject to petitioner's furnishing requisite stamp duty and registration fee within two weeks from the date of receipt of certified copy of this order.

12. The writ petition is allowed to the extent indicated herein above leaving the parties to bear their own cost(s).

SD/-

(Sanjay K. Agrawal)
Judge