

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: July 12, 2018
+ **CM(M) 629/2018 & C.Ms. 22389/2018 & 22390/2018**

SUNITA TREHAN & ANR. Petitioners
Through: Mr. F.K. Jha, Advocate

Versus

VISHARAT & ORS. Respondents
Through: Nemo.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 9th May, 2018 (*Annexure P-6*) declines petitioner's application for release of fixed deposit receipt of ₹40,000/- deposited by the Insurer in terms of Award of 17th April, 2017. As per the aforesaid Award, the shares of compensation granted to petitioner No.1 i.e. ₹30,00,000/- and petitioner No.2 i.e. ₹25,00,000/-, have been directed to be kept in fixed deposit receipt. Petitioners had filed an application for release of fixed deposit receipt on the ground that they need money to reconstruct an additional floor.
2. Learned counsel for petitioners has drawn attention of this Court to the Contractor's Estimate of 29th July, 2017 (*Annexure P-2*) to submit that the estimated re-construction cost is ₹41,60,000/-.
3. Despite service, there is no appearance on behalf of first two respondents. Third respondent is unserved. Petitioners' counsel submits that no relief is claimed against third respondent.

4. Upon hearing and on perusal of impugned order, I find that the insistence of Tribunal upon furnishing of sanctioned plan from MCD for proposed construction is the impediment in release of the deposited amount. To overcome the obstacle to release the deposited amount, learned counsel for petitioner has drawn attention of this Court to Reply (*Annexure P-5*) received under the Right to Information Act, 2005, which reveals that the house in question is in an unauthorized colony and so, there cannot be a sanctioned building plan of this house. To ensure that the deposited amount is released for the purpose of reconstruction of the additional floor, it is deemed appropriate to set aside the impugned order and direct that the amount of ₹20,00,000/- out of the fixed deposit receipt of ₹30,00,000/- in the name of first petitioner, be encashed and it be released in four stages directly to the Contractor- *Ritu Manga*, upon submission of stagewise report of expenditure proposed to be incurred. Similarly, amount of ₹10,00,000/- out of the fixed deposit receipt of ₹25,00,000/- in the name of second petitioner be encashed by following the above referred procedure.

5. With aforesaid directions, this petition and applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

JULY 12, 2018

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