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

+ **W.P.(C) 6447/2018**

BUDH RAJ AND ANR.

..... Petitioners

Through: Mr. Sahib Gurdeep Singh & Mr.
Siddhant Rai Sethi, Advocates (M-
9999496552).

versus

DELHI DEVELOPMENT AUTHORITY AND
ORS.

..... Respondents

Through: Mr. Arun Birbal & Mr. Sanjay Singh,
Advocates for DDA.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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06.06.2018

CM APPL.24809/2018 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

CM APPL.25024/2018

This is an application for early hearing. For the reasons stated in the application, the application is allowed.

Application stands disposed of.

W.P.(C) 6447/2018 & CM APPL.24808/2018 (for stay)

This is a petition filed by the Petitioner challenging the cancellation dated 26th December, 2017 issued by the DDA.

The Petitioner was allotted MIG flat No.260, First Floor, Pocket D,

Sector-17, Dwarka on 31st March, 2004 (*hereinafter*, 'flat'). The possession of the said flat was given to the Petitioner on 17th November, 2004. The property was converted into freehold and was thereafter let out by the Petitioner. He submits that the impugned cancellation is based on the allegation that since the wife of the Petitioner already had a flat in Mayur Vihar allotted in her name and since this fact was not disclosed at the time of the allotment of the MIG flat, the Petitioner is not entitled to the flat in question.

Admittedly, DDA had issued a show cause notice dated 20th September, 2017 calling upon the Petitioner to show cause as to why the allotment should not be cancelled. This notice was not replied to within the time prescribed in the said show cause notice. The Petitioner concedes that the reply to this show cause notice was filed only in May, 2018.

The Petitioner relies upon a decision of this court in ***Shri M.L. Aggarwal v. DDA 107 (2003) DLT611***, wherein it was held that the Nazul Rules, 1981 would apply to allotments made by the DDA. It is his submission that the flat in Mayur Vihar, owned by his wife, is less than 67 sq. mtrs. and therefore the bar against allotment of the Petitioner's second flat does not apply.

Be that as it may, the Petitioner having now filed a reply to the show cause notice dated 20th September, 2017, the DDA is directed to consider the said reply dated 14th May, 2018 after affording a personal hearing to the Petitioner. The DDA shall pass a speaking order in respect of the show cause notice after considering the reply and the prevalent law, including the judgment relied upon by the Petitioner. The adjudication will be completed within three months and a speaking order shall be passed by the DDA. Until

then no coercive measures shall be taken to disposes the Petitioner of the suit property. It is clarified that this Court has not expressed any opinion on the merits of the case.

The Writ Petition is disposed of and all the pending applications also stand disposed of.

Next date i.e.10th July, 2018 is cancelled.

Order *Dasti*.

PRATHIBA M. SINGH
(VACATION JUDGE)

JUNE 06, 2018
Rahul