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

\+ LPA 528/2018, CM No. 37153/2018

P D GUPTA

..... Appellant

Through: Mr. P.D. Gupta, Adv.

versus

HARYANA STATE INDUSTRIAL INFRASTRUCTURE

..... Respondent

Through:

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% 12.09.2018

CM No. 37153/2018

Exemption allowed subject to all just exceptions.

Application stands disposed of

LPA 528/2018

1. This petition has been filed by the appellant challenging the order dated July 19, 2018 passed by the learned Single Judge in W.P.(C) No. 11389/2016 whereby the learned Single Judge has dismissed the writ petition.

2. It is noted from the record that the appellant was allotted in the year

2002 a plot No. 28, Sector 2, G.C. Bawal, Haryana by HSIIDC measuring 450 sq. meter. Even though, the allotment letter stipulated that the petitioner would complete the construction within two years of the date of offer of the possession after getting the plans of the proposed building approved by the Competent Authority, he did not do so. He sought extension from time to time to complete the construction, which was also granted on making certain payments.

3. It is the case of the appellant that Estate Management Procedures, 2015 (for short 'EMP-2015') was issued. Paragraph 15.6 of the EMP-2015 contemplated that the allottee would complete the construction of a residential plot within a period of three years. The relevant extract of Clause 15.6 of EMP-2015, as noted by the learned Single Judge reads as under:-

> *"15.6* ***Construction on Residential Plots:***
>
> *i. The allottee shall complete the construction of the residential plot within a period of three years of the date of offer of possession after getting the plans of the proposed building approved from the competent authority in accordance with the regulations governing the erection of buildings.*
>
> *ii. Extension in period for completion of construction beyond the period of three years will be granted on year to year basis, on payment of extension fee. The fee for the 9th extension onwards will be double the extension fee for previous year as detailed hereunder*

without any cap for the extensions:

Sr. No.	*Area/Block*	*1st & 2nd year*	*3rd & 4th year*	*5th & 6th year*	*7th & 8th year*	*9th year*	*10th year*	*11th year*	*& so on*
1.	*Category 'A' Estates*	*40*	*60*	*100*	*150*	*300*	*600*	*1200*	*--*
2.	*Category 'B' & 'C' Estates*	*20*	*30*	*50*	*75*	*150*	*300*	*600*	*--*
	Note 1. There will be no limit on the number of extensions, however, in case the allottee doesn't deposit the extension fee for two consecutive years, plot shall be liable to be resumed. *2. Applicable service tax and interest 12% per annum from due date shall be payable.*								

4. It was the case of the appellant that since EMP-2015 was applicable from October 16, 2015, which would apply for the pending applications and his application for extension for the 9th year ought to have been considered in accordance with EMP-2015. It was his case that since EMP-2015 enlarged the initial period for completing the construction from two years to three years as provided in Clause 15.6 of EMP-2015, the appellant ought to have been granted extension till September 29, 2017 instead of September 29, 2016.

5. The learned Single Judge rejected the contention by noting an express clarification in the EMP-2015 that *"all cases decided in the past as per earlier Estate Management Procedures (EMPs)/Policies, shall not be re-opened."* It is the conclusion of the learned Single Judge, thus, the question

as to the period of initial extension stood finally concluded with the petitioner applying for extension for the first time, which was for the period September 30, 2006 to September 29, 2007. Even otherwise, the plea that the extension should have been till September 29, 2017 instead of September 29, 2016 shall also be unsustainable. The learned Single Judge has also noted that the petitioner has applied for further extension of time for completion of the building and the same has been granted till September 29, 2018.

6. The aforesaid conclusion of the learned Single Judge, based on the interpretation of the provisions of EMP-2015, we do not see any infirmity in the order. The appeal is without any merit and the same is dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 12, 2018/*ak*