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

+ **W.P.(C) 13704/2018**

SHANKAR PIRMAL YADAV

..... Petitioner

Through Mr Robin R. David, Mr Febin M
Varghese, Advocates.

versus

THE INSTITUTE OF CHARTERED

ACCOUNTANTS OF INDIA AND ANR.

..... Respondents

Through Mr S.S. Ray, Ms Pusshp Gupta,
Advocates for R3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.12.2018

CM APPL. 53501/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioner has filed the present petition impugning an order passed by the Board of Discipline of the Institute of Chartered Accountants of India. According to the, *prima facie*, opinion of the Director (Discipline), respondent no.2 was not guilty of "Other Misconduct" falling within the meaning of clause (2) of Part IV of First Schedule of The Chartered Accountants Act, 1949. The Board of Discipline had concurred with the aforesaid opinion.
4. The said proceedings were initiated pursuant to a complaint made by

the petitioner with regard to certain transactions entered into between the petitioner and respondent no.2. It is stated that sometime in August, 2007 the petitioner had entered into an agreement with respondent no.2 whereby the petitioner agreed to arrange 100 crores of land located in Karjat, Raigad District, Maharashtra. According to the petitioner, the respondent no.2 had paid a sum of ₹25,01,777/- for purchase of certain land. It is stated that respondent no.2 had thereafter, registered some of the land purchased in the name of his wife. The petitioner was somehow aggrieved by the same and had approached the local administration not to transfer the land. Thereafter, the petitioner had approached respondent no.2 for cancellation of the MOU entered into in August, 2007. According to the petitioner, the respondent no.1 had agreed to the same for a consideration of ₹30,50,000/-. The petitioner states that he was unable to raise the aforesaid amount initially and therefore, had to sell part of the lands to raise funds. It is stated that the petitioner paid a sum of ₹27 lakhs to respondent no.2 but he has declined to cancel the MOU. Thereafter, the respondent no.2 also filed a civil suit challenging the sale of land by the petitioner to the third party.

4. In 2012, the petitioner has also filed a suit before the Joint Civil Judge, Junior Division for cancellation of the MOU. It is seen from the above that there are disputes between the petitioner and respondent no.2 and this Court is unable to accept that the petitioner has established any ground to believe that respondent no 2 is guilty of any misconduct. The disputes between the parties arise of a contract entered into by them and it is difficult to readily accept that respondent no. 2 has been delinquent in any manner.

5. The Director (Discipline) had considered the same and had also come to the conclusion that the, *prima facie*, case was not made out against the

respondent no.2 and the Board of Discipline has also concurred with the aforesaid decision.

5. This Court finds no infirmity with the impugned order.
6. The petition is unmerited and is, accordingly, dismissed.

VIBHU BAKHRU, J

DECEMBER 18, 2018

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