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

+ LPA 48/2019

HEALTH CARE

..... Appellant

Through: Mr. Manish Makhija, Adv.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Ramesh Singh, Standing Counsel,
GNCTD with Mr. Chirayu Jain &
Ms. Nikita Goyal, Adv. for R-1 to 4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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12.02.2019

1. Seeking exception to an order dated 14.12.2018 passed by the writ court in W.P.(C) 13363/2018, this appeal has been filed by the appellant under Clause 10 of the Letters Patent.
2. Respondent No.5 – Scott Edil-Advance Research Laboratories & Education Ltd. entered into an agreement with the Government of NCT of Delhi and the Director General (Health Services), Central Procurement Agency on 17.08.2017 for supply of certain medicines. Petitioner/appellant herein claims to be an authorized agent of respondent No.5 and it is stated that he had supplied the medicines on behalf of respondent No.5. In execution of the agreement between respondent No.5 and respondents No.1 and 2, certain disputes have arisen and therefore the respondents No.1 and 2 have invoked the risk purchase clause and therefore the hospital concerned has placed the order for medicines in question at the risk and cost of the appellant. The appellant's grievance is with regard to steps for

recovery of the said amount from the appellant.

3. Learned writ court dismissed the writ petition on the ground that the entire dispute essentially relates to contractual agreement between respondent No.5 and respondents No.1, 2 and 3 and rejected the argument of the petitioner and held that in a dispute relating to contractual agreement between the parties, no element of public law is involved and relegated the petitioner to take recourse to the remedy available for enforcement of his contractual right.

4. The grievance of the appellant now before us in this appeal is that the respondent No.4 made illegal and unauthorized purchase causing loss to the public exchequer, caused wrongful gain by procuring generic medicines, showing them to be branded medicines and therefore as a public element is involved in the matter inasmuch as there has been wrongful siphoning of public money, the petition should have been looked into.

5. We are of the considered view that in the garb of the aforesaid public law element, appellant, in fact, wanted the writ court to adjudicate the *inter se* contractual dispute between the parties and in refusing to enter into this area of adjudication, in a petition under Article 226 of the Constitution of India, the learned writ court has not committed any error and therefore we see no reason to make any indulgence into the matter.

6. The appeal stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 12, 2019/kks