

\$~25

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

Date of Decision: 06.09.2019

+ LPA 579/2019

SATPAL

..... Appellant

Through: Mr. Kali Charan, Adv.

versus

THE CHIEF SECRETARY, GOVT OF NCT & ORS..... Respondents

Through: Ms. Namrata Mukim, Adv. with

Ms. Kashpi Agrawal, Adv. for R-2/EDMC

Ms. Anusuya Salwan, Adv. with Ms. Shreya
Sharma, Adv. for R-3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This Letters Patent Appeal has been preferred by the original petitioner, whose Civil Writ Petition, being W.P.(C) 7765/2019, was dismissed by the learned Single Judge *vide* judgment and order dated 19th July, 2019.

2. Factual Matrix

- Looking into the facts and circumstances of the case, it appears that this appellant (original petitioner) was in search of allotment of industrial plot under the “Relocation Scheme of Industries, 1996” (hereinafter referred to as ‘the Scheme’).
- One Mr. Bharat Bhushan claimed the allotment under the Scheme,

1996 for the industrial unit, viz., M/s Pradeep Wood Works.

- M/s Pradeep Wood Works belongs to this appellant (original petitioner) and therefore, a fraud was committed, as alleged by this appellant, by Mr. Bharat Bhushan and he (Mr. Bharat Bhushan) was wrongly allotted a plot under the Scheme, 1996 and hence, initially, this appellant had preferred W.P.(C) 5834/2014.
- In the aforesaid writ petition, an order dated 5th September, 2014 (Annexure P-24) was passed by this Court, directing investigation to be carried out by the respondents and to communicate the result of the said inquiry to this appellant. The inquiry was conducted and it was found that Mr. Bharat Bhushan had committed a fraud and had wrongly obtained the plot under the Scheme, 1996. It further appears from the facts of the case that the allotment of the land to Mr. Bharat Bhushan was cancelled.
- Though allotment to Mr. Bharat Bhushan was cancelled as he committed fraud and the plot was wrongly allotted in the name of M/s Pradeep Wood Works which belongs to this appellant (original petitioner), allotment of an alternative plot to this appellant (original petitioner) was not given.
- As there was no allotment of the industrial plot to this appellant (original petitioner), one more writ petition, bearing W.P.(C) 10416/2017, was preferred by this appellant.
- The said writ petition was dismissed by this Court *vide* order dated 24th November, 2017 (Annexure P-30). Looking into this order, it appears that as no application was preferred by this appellant (original petitioner), hence there was no allotment of the plot to the appellant by the respondents under the Scheme, 1996.

- Being aggrieved and feeling dissatisfied by the aforesaid order, dated 24th November, 2017, passed by the learned Single Judge in W.P.(C) 10416/2017, this appellant preferred LPA 11/2018. The said Letters Patent Appeal was disposed of by a Division Bench of this Court *vide* judgment and order dated 10th January, 2018 (Annexure P-31), whereby the Division Bench directed the Delhi State Industrial and Infrastructure Development Corporation (DSIIDC) to take a decision in accordance with law.
- DSIIDC took a decision on 4th July, 2018 in compliance of the order dated 10th January, 2018 passed by a Division Bench of this Court in LPA 11/2018.
- This appellant has not annexed a copy of the order passed by DSIIDC, dated 4th July, 2018. This appellant has not challenged the said order. Thus, the order passed by DSIIDC has attained finality.
- This appellant had preferred one more writ petition, bearing W.P.(C) 7765/2019, wherein he prayed for allotment of the industrial plot under the Relocation of Industry Scheme, 1996, in compliance of the order passed in LPA 11/2018, dated 10th January, 2018.
- The W.P.(C) 7765/2019 was dismissed by the learned Single Judge *vide* judgment and order dated 19th July, 2019 and hence, the original petitioner has preferred the present Letters Patent Appeal.

3. **Arguments canvassed by the counsel for appellant (original petitioner)**

- It has been submitted by counsel for the appellant that despite the order passed by a Division Bench of this Court in LPA 11/2018, dated 10th January, 2018 (Annexure P-31), the respondents have not allotted the industrial plot as per the Scheme, 1996. Moreover, when the

allotment, made to Mr. Bharat Bhushan, has already been cancelled, the respondents ought to have allotted an alternative industrial plot to this appellant. This aspect of the matter has not been appreciated by the learned Single Judge, hence, the judgment and order passed by the learned Single Judge in W.P.(C) 7765/2019 dated 19th July, 2019 deserves to be quashed and set aside. It is also submitted by the counsel for appellant (original petitioner) that as the fraud was committed by Mr. Bharat Bhushan, who applied in the name of M/s Pradeep Wood Works – which, in fact, belongs to this appellant and when he was wrongly allotted the alternative industrial plot, which was cancelled later, the said plot should have been allotted to this appellant, who is the true and correct owner of M/s Pradeep Wood Works. This aspect of the matter has also not been properly appreciated by the learned Single Judge while deciding the writ petition preferred by this appellant and hence, the judgment and order dated 19th July, 2019 passed by the learned Single Judge in W.P.(C) 7765/2019 deserves to be quashed and set aside.

4. Counsel appearing for the respondents submitted that no error has been committed by the learned Single Judge while deciding the writ petition preferred by this appellant. It is further submitted by the counsel for respondents that in pursuance of the order dated 10th January, 2018 (Annexure P-31) passed by a Division Bench of this Court in LPA 11/2018, a decision was taken by DSIIDC on 4th July, 2018. The said decision has not been challenged by this appellant before any Court, Forum or Tribunal. Thus, the said order, dated 4th July, 2018, has attained finality. This aspect of the matter has been properly appreciated by the learned Single Judge while deciding the writ petition preferred by this appellant. Hence, this

appeal may not be entertained by this Court.

5. Reasons:

Having heard the counsel for both the sides and looking into the facts and circumstances of the case, it appears that:

- In scheme floated by the respondents under the Scheme, 1996, this applicant (original petitioner) was in search of alternative industrial plot.
- This appellant claims to be the sole proprietor of M/s Pradeep Wood Works.
- One Mr. Bharat Bhushan had applied for alternative industrial plot under the Scheme, 1996 in the name of M/s Pradeep Wood Works. Later on, this appellant came to know about the allotment of an industrial plot to Mr. Bharat Bhushan. This appellant earlier preferred W.P.(C) 5834/2018 which was decided by this Court *vide* order dated 5th September, 2014 (Annexure P-24), wherein the Court directed the respondent to carry out an inquiry about the claim of Mr. Bharat Bhushan and the claim of this appellant.
- It appears that Mr. Bharat Bhushan was wrongly given or allotted the industrial plot in the name of M/s Pradeep Wood Works and his allotment was cancelled by the respondents, but the alternative industrial plot was not allotted to this appellant.
- One more writ petition was preferred by this appellant bearing W.P.(C) 10416/2017 for getting an alternative plot under Scheme, 1996. The W.P.(C) 10416/2017 was dismissed by the learned Single Judge *vide* order dated 24th November, 2017 (Annexure P-30).
- Being aggrieved by the aforesaid order in W.P.(C) 10416/2017 dated 24th November, 2017, LPA 11/2018 was preferred by this appellant

which was disposed of by a Division Bench of this Court *vide* judgment and order dated 10th January, 2018 (Annexure P-31). For ready reference paras 6 and 7 thereof read as under:

“6. This Court is of the opinion that once the DSIIDC accepted the appellant's plea that he was the victim of the fraud played by the third party, it was obliged at least to verify whether he or anyone connected with him (such as his father etc.) owns Pradeep Wood Works. In such eventuality, the logical corollary would be that the DSIIDC has to ensure that either the plot which was cancelled or another plot of the same size is offered to the petitioner.

7. For the forgoing reasons, the DSIIDC is directed to enquire into the matter and ascertain whether the petitioner/appellant was in fact operating as proprietor of Pradeep Wood Works at the time when the offer letter was issued to that concern, i.e., in May 2004. If as a result of that enquiry, the DSIIDC determines that the petitioner was in fact the sole proprietor of the concern, it should take necessary remedial steps to offer either the cancelled plot or another plot in view of the above. The DSIIDC shall consider all the materials on record in this regard including the materials placed before the Court and pass reasoned order which shall be independently communicated to the appellant within eight weeks from today.”

In view of the aforesaid directions given by the Division Bench of this Court in LPA 11/2018, DSIIDC rejected the claim of this appellant *vide* order dated 4th July, 2018. This appellant has not annexed this order dated 4th July, 2018 passed by DSIIDC nor has this appellant challenged this order. Thus, the order passed by DSIIDC dated 4th July, 2018 has attained finality.

- This appellant has preferred one more writ petition, being W.P.(C) 7765/2019, for getting an alternative industrial plot under the Scheme,

1996 on the basis of the order dated 10th January, 2018 passed by a Division Bench of this Court in LPA 11/2018. It appears that without challenging the order dated 4th July, 2018 passed by DSIIDC, the writ petition preferred by this appellant cannot be allowed. In fact Division Bench of this Court, in LPA 11/2018, *vide* order dated 10th January, 2018 (Annexure P-31), had not directed the respondents to allot an alternative industrial plot to this appellant. Looking into the order dated 10th January, 2018 passed in LPA 11/2018, the only direction given was to decide the claim of this appellant and nothing beyond that. The Delhi State Industrial and Infrastructure Development Corporation has now decided the claim of this appellant *vide* order dated 4th July, 2018, which has not been challenged by this appellant in any court of law, hence, the writ petition, being W.P.(C) 7765/2019, cannot be allowed. This aspect of the matter has been properly appreciated by the learned Single Judge while deciding the writ petition preferred by this appellant *vide* order dated 19th July, 2019, passed in W.P.(C) 7765/2019. Hence, there is no substance in this appeal.

6. With the aforesaid observations, this Letters Patent Appeal is dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 06, 2019/ns