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

\+ W.P.(C) 1535/2019 & CM APPL. No.34589/2020

SHRI ANAND SHARMA ..... Petitioner

Through Mr.Vasdev Lalwani and Mr.Rohit Gautam, Advs.

Versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

Through Mr.Naveen Raheja and Ms.Aditi Shastri, Advs.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **24.12.2020**

This hearing is conducted through video conferencing.

1. At the outset, the learned counsel for the petitioner submits that there is a typographical error in the name of the petitioner. It is described as "Anand Sharma" but is actually "Ashish Sharma". He states that this aspect was taken note of by this court in its order dated 03.05.2019. The affidavit in support of this petitioner is also of one Mr.Ashish Sharma. The petitioner may file amended memo of parties.

2. This writ petition is filed by the petitioner seeking a direction to the respondent DDA to refund the sum of Rs.22 lakhs to the petitioner together with interest.

3. The case of the petitioner is that the petitioner was looking for some property for the residence of his family in Delhi. One person by the name of Sh.Prem Shankar Sharma introduced himself as an employee of DDA

wherein he is working as Assistant Director. He offered to help the petitioner to buy a plot in East Delhi on Govt. rates fixed by DDA without having to go through the process of auction. A plot was offered to the petitioner which was to cost Rs.1.25 crore having market value of more than Rs.5 crores. Thereafter, certain documents alleged to have been issued by DDA allotting the plot in favour of the petitioner for a total consideration of Rs.1.25 crore was handed over to the petitioner with two challans, one for Rs.13,90,000/- and other for Rs.8,10,000/- to be deposited with DDA for allotment of the said plot. The amount was also deposited towards the stamp duty. The petitioner deposited the said amount of Rs.13,90,000/- and Rs.8.10.0000/- with DDA vide Challan No.219210 dated 20.09.2011 with the Central Bank of India, Vikas Sadan, New Delhi.

4. After making payment of Rs.22 lakhs to DDA, the petitioner visited the office of the respondent DDA for making further payment towards the cost of the plot alleged to have been allotted to him by the respondent DDA. The petitioner learnt that a fraud has been played on him by the said persons and all the documents, allotment letter, challans were never issued by respondent DDA. The petitioner has filed an FIR No.70 dated 28.03.2013 with the Economic Offences Wing, District Crime & Railways, Delhi. It is stated that the police has not concluded the investigation for one reason or the other.

5. The petitioner visited the office of the respondent DDA on numerous occasions for refund of amount of R.22 lakhs deposited by the petitioner but no result has been found.

6. On 27.08.2018, the petitioner moved an application under RTI Act seeking information in respect of said Rs.22 lakhs. The respondent DDA

vide its reply dated 17.10.2018 replied to the petitioner that the said amount of Rs.22 lakhs deposited by the petitioner on 20.09.2011 is appearing in the cash book in Nazul Account-II. Hence, the present petition.

7. I have heard learned counsel for the parties.

8. Learned counsel for the respondent DDA has strongly opposed the present writ petition. He has taken me through the FIR lodged by the petitioner subsequent to the alleged fraud where he has admitted that he has made payment for "unofficial expenditure". He also admits that the market price of the land is approx Rs.5 crores but it was to be made available to him only of Rs.3.25 crores. It is pleaded that the entire transaction is on the face of it a fraudulent one in which the petitioner was co-conspirator. Hence, this court should not assist the person who is indulging in such illegal acts himself.

9. In my opinion, what transpires is that the petitioner is a victim of fraud played upon him. In his enthusiasm, he booked a house and parted with large amount of money including Rs.22 lakhs to DDA. The said amount admittedly has been received by DDA. The amount does not belong to DDA and has not been paid for pursuant to any service rendered or consideration given by DDA. The petitioner already being a victim of fraud should not be further burdened with further loss and damage. DDA cannot unjustly enrich itself in this manner.

10. In the facts and circumstances, in my opinion, the petitioner would be entitled to refund of the said amount of Rs.22 lakhs, which is lying with DDA. It is ordered accordingly.

11. DDA will refund the said Rs.22 lakhs to the petitioner within eight weeks from today.

12. Nothing further survives in this petition. The petition is disposed of. All pending applications, if any, are also disposed of.

JAYANT NATH, J.

DECEMBER 24, 2020/v