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

+ LPA 174/2020, CM APPL. No.15229/2020 (for ad-interim ex parte stay)

RAJESH RAI

.....Appellant

Through: Appellant in person

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: Ms. Mrinalini Sen, Standing Counsel
along with Ms. Niharika Jauhari,
Advocate

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **16.07.2020**

The present matter has been taken-up for hearing by way of Video Conferencing on account of COVID-19.

CM APPL. No.15228/2020 & CM APPL. 15230/2020 (Exemptions)

Exemptions allowed, subject to all just exceptions.

The applications are disposed of accordingly.

CM APPL. No.15231/2020 (Exemption)

The present application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicant/appellant seeking exemption from filing the requisite court fees.

For the reasons stated in the application and in view of the present prevailing situation, the same is allowed. The applicant/appellant is allowed to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

With the above direction, the present application is disposed of.

LPA 174/2020

The present letters patent appeal under Clause 10 of the letters patent assails the interim order dated 01.07.2020, passed by the learned Single Judge, finally disposing of CM APPL. No.13335/2020 in W.P. (C) 3720/2020.

We are informed at the Bar that, the writ petition itself is now listed for hearing on 25.08.2020.

Mr. Rajesh Rai, the appellant appearing in person limits the relief in the present letters patent appeal to the liberty to seek refund of Earnest Money Deposit (hereinafter referred to as the 'EMD') of Rs.2,54,015/- (Two Lac fifty four thousand fifteen) only, deposited by him, along with interest thereon, at the time of the writ petition is taken up for adjudication.

It is trite to state that, the views expressed at the time of finally disposing of an interim application are only *prima facie* views and do not operate *res judicata* in the substantive proceeding. As it is held by Hon'ble Supreme Court of India in **State of Assam v. Barak Upatyaka D.U. Karamchari Sanstha** reported as **2009 (14) SCC 694**, as follows:

"21. A precedent is a judicial decision containing a principle, which forms an authoritative element termed as ratio decidendi. An interim order which does not finally and conclusively decide an issue cannot be a precedent. Any reasons assigned in support of such non-final interim order containing prima facie findings, are only tentative. Any interim

directions issued on the basis of such prima facie findings are temporary arrangements to preserve the status quo till the matter is finally decided, to ensure that the matter does not become either infructuous or a fait accompli before the final hearing.”

In view of the foregoing, the present appeal is disposed of with liberty to the appellant to press for refund of EMD of Rs.2,54,015/- deposited by him, along with interest thereon, before the learned Single Judge, at the time of the adjudication of the writ petition, in accordance with law.

With the above direction, the present appeal is disposed of accordingly. Pending application also stands disposed of.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

JULY 16, 2020/as