

16.11.2023  
Item No.9  
gd/ssd

MAT/1687/2023  
IA NO: CAN/1/2023  
KOLKATA METROPOLITAN  
DEVELOPMENT AUTHORITY AND ORS.  
VS  
SRI SOURENDRA NATH PAL AND ORS.

Mr. Sirsanya Bandhopadhyay,  
Mr. Satyajit Talukder  
..for the Appellants.

Mr. Prasanta Kumar Dutt,  
Mr. Susanta Kumar Dutt,  
Mr. Syamantak Banerjee  
..for the Respondents.

1. This intra court appeal by the Kolkata Metropolitan Development Authority is directed against the order dated 17<sup>th</sup> August, 2023 in WPA 17384 of 2018.

2. The said writ petition was filed by the respondents seeking for a direction upon the appellant and others to execute a sale deed in respect of a flat which was allotted to the writ petitioners pursuant to a lottery called for by the appellant/authority.

3. Admittedly, the allotment was made in favour of the writ petitioners in the year 2007 and the cost which was finalised was paid in full by the writ petitioners. Yet, the authority did not execute a deed of absolute sale and transfer of the property in their favour which prompted them to approach the writ court. The reason for approaching the writ court on

account of a decision taken by the appellants by referring to a land allotment policy which was formulated by the State Government by order dated 26.12.2012.

4. On perusal of the said order, we find that the same came to be passed with a view to introduce uniformity, reduce discretion and to ensure transparency while dealing with public assets. A careful reading of the land allotment policy dated 26.12.2012 would go to show that it was prospective in nature and does not speak about the allotments which have been already made prior to the policy being revised. In any event, the writ petitioners were able to show before the learned writ court and before us that in the very same project deed of absolute sale has been executed and in such circumstances, the writ petitioners alone cannot be singled out and compelled to accept a 99 years lease of the property.

5. Therefore, we are of the view that the learned Single Bench was fully justified in issuing the direction contained in the impugned order dated 17.08.2023 and the same would not call for any interference. In paragraph 22 of the impugned order, the learned Single Bench has imposed the cost of Rs.1 lakh on the appellant.

6. Considering the facts and circumstances of the case and no specific instances of malafide has been

established against the appellants for taking a stand as taken by them in the affidavit-in-opposition filed in the writ petition, we deem it appropriate to delete the cost imposed on the appellants.

7. Accordingly, while affirming the order and direction issued by the learned Single Bench, this appeal is allowed only to the extent with regard to the imposition of cost of Rs.1 lakh which stands deleted.

**(T. S. SIVAGNANAM)**  
**CHIEF JUSTICE**

**(HIRANMAY BHATTACHARYYA, J.)**