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

\+ W.P.(C) 10988/2017

KULWANT SINGH ..... Petitioner

Through: Mr. Bhagat Singh and Mr. Vidit Gupta, Advs.

versus

DDA ..... Respondent

Through: Mr. Anuj Chaturvedi, Adv.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

O R D E R

% 28.02.2019

1. The prayer in this writ petition is for release of an amount of ₹ 5,22,300/-, which was admittedly been paid by the petitioner to the DDA. The case sought to be made out by learned Counsel the respondent is that the petitioner had attempted to play a fraud on the DDA. He contends that, initially, the petitioner had applied for a plot and had, therefore, subsequently applied for cancellation of the plot and, on the plot being cancelled, the amount deposited by way of earnest money under FDR was released to the petitioner and the FDR was rendered inoperative.

2. Learned counsel for the respondent submits that, despite this fact, owing to an inadvertent mistake, the DDA, 20 years later, allotted a plot to the petitioner. He submits that the petitioner took advantage of this mistake on the part of the DDA and, by fraud, first lodged an FIR claiming that he had misplaced the FDR and thereafter deposited an amount of ₹ 5,22,300/- with the DDA, for allotment of flat. He points out that the petitioner had no right to any flat, as his allotment

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had already been cancelled and the FDR which, he claimed to have lost, had become inoperative as the money thereagainst had been released to the petitioner consequent to cancellation of the allotment.

3. He submits that it was in these circumstances that the DDA, apparently in order to teach a lesson to the petitioner for having committed fraud on the DDA, decided to forfeit the amount of ₹ 5,22,300/- deposited by the petitioner.

4. To say the least, the argument is astounding. Irrespective of whether the petitioner had, or had not, played any fraud with the DDA, moneys of citizens cannot be retained by the DDA without any authority of law. Learned counsel for the respondent is unable to draw my attention to any provision or instrument, documentary or otherwise, to show the DDA has a right to retain the said money. The DDA is not empowered to adopt the attitude of a vigilante, and retain the money of citizens merely because they are chagrined at what they perceived to be a fraud committed upon them.

5. The DDA may have its remedies against the petitioner, if the petitioner has, in fact, attempted to play a fraud on the DDA. That however, would not entitle the DDA to retain the petitioner's money, with no authority of law whatsoever. This may, in fact, amount to criminal misappropriation of the petitioner's money.

6. Before my expressing any further opinion on the controversy, learned counsel for the respondent seeks and is allowed to take

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instructions in the matter.

7. Renotify for disposal at the end of the board as part-heard on 8th March, 2019.

Order be given *dasti* under the signature of the Court Master.

FEBRUARY 28, 2019/kr **C.HARI SHANKAR, J**

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