

\$~33

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

% *Date of Decision: 10th November, 2021*

+ LPA 419/2021

JITIN GARG

..... Appellant

Through: Mr. Rajeev Kumar, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Ms. Prabhsahay Kaur, Standing
Counsel for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL. 39266/2021 (Exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

LPA 419/2021 & CM APPL. 39265/2021 (Stay)

1. Being aggrieved and feeling dissatisfied with the judgement and order dated 20.09.2021 passed by learned Single Judge in W.P.(C) No.10331/2020, the Original Petitioner has preferred the present Letters Patent Appeal.
2. Appellant had approached the learned Single Judge seeking a direction to the Respondent/DDA to extend the time for depositing 75% of

the balance amount and issue a fresh Demand Notice. The writ petition was dismissed by the learned Single Judge on a short ground that the DDA by its Circular dated 02.12.2020 had granted further time to all similarly placed persons to make payments by 31.12.2020. The Circular was notified on the DDA's website and despite the extension of time, Appellant did not take the benefit and make payment and instead chose to file a writ petition on 13.11.2020.

3. We have heard the learned counsels appearing on behalf of the parties and have looked into the facts and circumstances of the case.

4. Brief facts relevant to the present appeal are that Respondent/DDA issued online advertisement for e-auction of some residential properties on 10.08.2019. Appellant deposited 5% EMD i.e. Rs.7,00,859/- on 06.09.2019 for auction of "Residential Plot No. 6, Pocket B-1, Sector-29, Rohini, Delhi." On 11.09.2019, during the online bidding, Appellant emerged as a highest bidder for the plot in question and the total value of the plot was Rs.2,41,66,000/-.

5. Letter of Intent was issued by Delhi Development Authority in favour of the Appellant on 04.12.2019. On 09.12.2019, Appellant deposited 25% being Rs.53,40,759/- as demanded by the DDA. Thereafter, on Block dated 19.03.2020-28.03.2020, a Demand Letter was issued by the DDA for balance payment of Rs.1,81,24,600/-.

6. According to the Appellant, the balance payment could not be made as lockdown was imposed by the Government on 23.03.2020 on account of Pandemic Covid-19. On 30.03.2020, Respondent issued a Public Notice for extension of time for making payment under different Housing Schemes, but there was no clarity of the notice related to the plot of the Appellant. As per

the Demand Letter, Appellant was required to pay the balance amount by 25.06.2020. However, Appellant was unable to arrange for the loan due to the Pandemic and the last date under the Demand Letter expired.

7. Learned counsel for the Appellant contends that a limited relief was sought by the Appellant before the learned Single Judge for grant of extension of time so that the balance amount could be deposited as the Appellant had already deposited 25% towards the cost of the plot. However, the learned Single Judge declined to grant the relief, compelling the Appellant to approach this Court. It is argued that the payment could not be made within the time stipulated in the Demand Letter on account of Pandemic Covid-19. For the same reason, even the loan could not be arranged on time, which was subsequently approved by the Axis Bank. However, despite this, neither the Respondent nor the learned Single Judge granted further time for paying the balance 75%.

8. It is not disputed before us that the Appellant was unable to deposit 75% of the value of the plot for which the last date in the Demand Letter was clearly 25.06.2020. The total value of the plot was Rs.2,41,66,000/-, out of which 25% (Rs.60,41,500/-) was already deposited by the Appellant (original petitioner) on 10.12.2019, after receiving the Letter of Intent dated 04.12.2019.

9. Appellant had made some representations to the DDA seeking extension of time but being unsuccessful in getting the relief, he preferred a writ petition being W.P. (C) No.10331/2020 on 13.11.2020 seeking extension of time to deposit remaining 75% of the value of the plot.

10. We find as a matter of record that Respondent *vide* communication dated 02.12.2020 had extended the time, on its own volition, upto

31.12.2020, perhaps keeping in view the difficulties faced by the public due to Pandemic Covid-19. It is an undisputed fact that the Appellant did not avail the benefit of extension of time granted by the DDA and instead of making payment during the extended time, chose to file a writ petition and contest the case. In our view, the learned Single Judge has rightly dismissed the writ petition on the ground that Appellant should have taken the benefit of the extended time as a vigilant claimant is expected to be aware of how to pursue his or her claims promptly. Learned Single Judge has also observed in the impugned order that the Circular dated 02.12.2020 granting time for payment upto 31.12.2020, was duly notified on the DDA's website and many persons have reaped the benefit of the extension. Once the Circular was notified on the website, we fail to understand why the Appellant did not seek the benefit of extension and deposit the balance 75%. Surely, the Appellant cannot at this stage be given the relief of extension of time, once he has failed to avail the benefit given by DDA itself.

11. In any event, the plot in question was auctioned by the DDA and it is for the DDA to lay down the time schedules of the payments. This is really in the realm of a contract between two contracting parties and it is not in the domain of this Court to interfere and extend the time for depositing the balance 75%. We also do not find any merit in the contention of the Appellant that he was unable to arrange the loan for making the balance payment. The advertisement for e-auction was issued on 10.08.2019 and the online bidding was on 11.09.2019, when the Appellant emerged as a highest bidder. At this stage, it was well known to the Appellant that he was required to pay a sum of Rs.2,41,66,000/- towards the total value of the plot

and there was no reason for the Appellant not to have made arrangements to make the payment. A subsequent event of Pandemic, in our view, will not inure to the advantage of the Appellant, though even this was factored in by the Respondent and extension of time was granted for nearly six months i.e. from June, 2020 to 31.12.2020.

12. This aspect of the matter has been properly appreciated by the learned Single Judge while deciding the writ petition. We are in full agreement with the reasoning of the learned Single Judge and for ready reference, paragraphs 2, 3 & 4 of the impugned judgement are extracted hereunder :-

“2. The petitioner was a successful bidder of Residential Plot No. 6, Pocket B-1, Sector-29, Rohini, Delhi. 5% Earnest Money Deposit of Rs.7,00,859/- had been paid on 06.09.2019. A Letter of Intent was issued on 04.12.2019 requiring another 25% to be paid within 7 days from date of its issuance. The said amount was deposited within time. A demand letter dated 19/03/2020- 28/03/2020 was issued to the petitioner vide letter no. F 11(109)/2019/LSB(R)469 seeking remaining 75% of the amount to be paid by 25.06.2020. The said monies were not paid. After the date got over, the petitioner sought issuance of fresh demand letter from the DDA, so that he could arrange for monies. The petitioner did nothing during the period of payment and is seeking to make out a case after the period got over.

3. The DDA by its Circular dated 02.12.2020 had granted further time to similarly situated persons to make the payments by 31.12.2020. The said circular was notified on the DDA's website but was not sent to the persons individually. While due notice of the

Circular is not challenged in the writ petition, it did exist on DDA's website and many persons have reaped the benefit of DDA's policy decision. The writ petition itself was filed on 13.11.2020. A vigilant claimant/litigant is expected to be well aware of the changes in policy and to pursue his/her claims promptly. The petitioner should have taken benefit of the extended time. Surely, a bank loan could have been arranged to pay the DDA. Simply, because the petitioner wrote a letter to the DDA on 02.07.2020 seeking extension of time, does not by itself grant locus to the petitioner for issuance of a fresh demand letter or for extension of time.

4. No case is made out. The petition is without merit. Accordingly, it, along with pending applications, stands dismissed.”

13. Appellant ought to have known that if a plot was being auctioned and he succeeded as being the highest bidder, he was bound to deposit not only the initial 25% but also the balance 75% within the time period stipulated in the Demand Letter. Not only did the Appellant not deposit the 75% within the stipulated schedule but also failed to pay during the extended period while many other similarly placed reaped the benefit of time extension. Merely because the Appellant has approached this Court, cannot be a reason enough to grant him further extension against the policy and decision of the Respondent. If the Appellant chose to remain silent and not acted vigilantly or promptly, despite the Circular of the DDA being on the website, he must suffer for the laxity.

14. We find no infirmity or error in the impugned judgment.

15. There is no merit in the Appeal and the same is accordingly dismissed alongwith the pending application.

CHIEF JUSTICE

JYOTI SINGH, J

NOVEMBER 10, 2021

sn

HIGH COURT OF DELHI



भारतमेव जयते