

Court No. - 2

Reserved

Case :- MISC. BENCH No. - 3606 of 2012:- Aharwas Singh @ Atarwas Singh
Respondent :- Lucknow Development Authority Lucknow Thr.Chairman And Anr.

Counsel for Petitioner :- D.K.Mishra

Counsel for Respondent :- U.N.Mishra,N C Mehrotra,Rajesh Singh Chauhan

Hon'ble Devi Prasad Singh,J.

Hon'ble Arvind Kumar Tripathi (II),J.

(Delivered by Hon'ble Arvind Kumar Tripathi(II),J.)

(1) Heard Sri D.K. Mishra, learned counsel for the petitioner and Sri N.C.Mehrotra, learned counsel for the respondents.

(2) This is yet another case in which Lucknow Development Authority, after advertising scheme for allotment of plots in Gomti Nagar Extension Scheme, and after making allotment and taking deposit of the entire amount from the public, has failed to deliver possession and execute the sale deed even after a lapse of more than seven years, while keeping the money in its accounts and earning interest or utilizing it in other schemes and getting benefits. On account of inaction of the Lucknow Development Authority, the poor allottee was running from pillar to post for getting possession of the plot while the Lucknow Development Authority, on one pretext or other, is delaying or refusing the delivery of possession to the allottee.

(3) As per factual matrix of the case, petitioner applied for a plot in Gomti Nagar Extension on 18.5.2004 and deposited Rs.50,000/- in the shape of demand draft in favour of Secretary of the Lucknow Development Authority. Petitioner was allotted a plot in Sector-6 of Gomti Nagar Extension measuring 115.50 Sq. Mtrs. bearing property no.6/315 through lottery system on 28.2.2005. Allotment letter was dispatched only on paper as it never reached the petitioner as alleged by him. However, the petitioner after being aware of the allotment of plot in his favour, deposited the 3 installments at the tune of Rs.1,71,170/- on 21.10.2005. 4th, 5th,6th installments of Rs.50,935/- each was deposited on 30.11.2005, 27.7.2006 and 31.7.2006 respectively. Petitioner deposited Rs. 1,50,000/- in advance on 18.12.2006. An amount of Rs.2,805/- was also deposited same day on account of the difference of the installment. Last installment was due on 28.2.2007, but the same was paid in advance on 18.12.2006. Grievance of the petitioner is that in spite of payment of the entire amount neither the Lucknow Development Authority transferred possession of the land and nor executed the sale deed even after lapse of more than six years. The Lucknow Development Authority is now taking stand that there is a

dispute with regard to possession in their favour in Sector 6 of the scheme. Later on, vide application dated 18.10.2011 petitioner requested to the Lucknow Development Authority that if there is some dispute regarding land of Sector 6 he may be allotted another other plot in Sector-3, 4 or 5 of the same Scheme measuring same area and if same area is not available any bigger vacant plot may be allotted and he is ready to pay the difference existing in the year 2012. Petitioner again requested the officers of the Lucknow Development Authority on 5.5.2012 for the same, but he did not receive any reply or assurance. By filing the petition, the petitioner has prayed that writ in the nature of mandamus be issued commanding the opposite parties to handover the possession of plot no.315, type D, situated in Sector No.6, Gomti Nagar Extension, Lucknow. In the alternative, it was also prayed that writ order or direction be issued in the nature of Mandamus commanding the opposite parties to give possession of another plot in the same scheme in Sector No.3, 4 or 5 in the Gomti Nagar Extension equal to the plot already allotted to him and if a bigger plot was available, then that plot be allotted and possession be handed over to the petitioner who is ready to pay the difference of amount existing in the year 2014.

(4) Counter affidavit by Authority was filed and it was averred that on account of resentment and strong opposition of the villagers of the area, development work could not be started and therefore the authority could not hand over the possession of plot allotted to the petitioner and due to this, sale deed could not be executed. The Lucknow Development Authority have at present no alternative land therefore the allotted plot of the petitioner could not be adjusted at any other place. However, if the petitioner so desires, as per procedure prescribed under the Rules. Petitioner has not deposited the installments within stipulated time and delayed payments was made. The allotment of the plot to the petitioner has not been cancelled and it is very much in force but due to unavoidable circumstances neither registered sale deed could be executed, nor alternative plot can be offered.

(5) It was submitted by learned counsel for the petitioner that by not giving possession of plot in question after taking deposit of entire price of the plot in the year 2006 itself not only amount to arbitrary exercise of powers but also amounts to unjust enrichment of the Lucknow Development Authority on the amount deposited by allottee. It has been also submitted that burden lies on the Lucknow Development Authority to take possession and develop the plot after acquisition and if there was any dispute after acquisition, the Lucknow

Development Authority should have resorted to the means available with it to get it free of dispute. It was further submitted that counter affidavit is silent about the steps taken by Lucknow Development Authority after the publication of scheme in the year 2005 to develop land and for making it free of dispute. It was further submitted that the Lucknow Development Authority could not have published the scheme for allotment without having been in possession of the land.

(6) On the other hand, learned counsel for the Lucknow Development Authority vehemently defended the stand of the Lucknow Development Authority on the ground that in spite of all efforts done by the Lucknow Development Authority possession with regard to the plot allotted to the petitioner could not be given on account of some resentment and obstruction of the villagers and the petitioner can take his money back as per rules.

(7) From perusal of the writ petition, counter affidavit and rejoinder affidavit it is evident that this fact has been deliberately not mentioned in counter affidavit as to whether the Lucknow Development Authority was in clear possession over the land for which they advertised and accepted money and issued allotment letter. It is also not averred as to when did the resentment broke out and whether it was prior to or after the acquisition or after advertisement, allotment and accepting money. It is also not mentioned that as to whether the obstacle in developing the land has been resolved or not. It has also not been mentioned that what is the status of the land so acquired by State for the Lucknow Development Authority. Considering the spiraling prices of land and mushrooming of high rise apartments in Lucknow particularly in the area in question, it is unthinkable that a vast area of land should have remained unutilized for more than seven years. It is very strange and painful to note that the Lucknow Development Authority has deliberately withheld material facts and given evasive reply. Any allotment made without due acquisition of law followed by possession by the Lucknow Development Authority is the instance of non-application of mind and antithesis of rule of law.

(8) Be that as it may, the allottees cannot be put to suffer for delay for any reason whatsoever in the matter of delivering possession of land in pursuance of allotment letter by the Lucknow Development Authority. It is for the Lucknow Development Authority to ensure that allotment followed by receiving the money is to be done only in case the Lucknow Development Authority is in actual possession of the land/allotted plots. So far as the

obstruction created by some villagers, the Lucknow Development Authority being instrumentality of State, burden lies on State Government to provide necessary assistance on request of the Lucknow Development Authority to discharge its obligation. In case, after allotment and accepting money, possession is not delivered and sale deed is not executed, then it shall be incumbent on the development authorities to pay reasonable interest to the allottees on the cost of land or plot deposited.

(9) In *SG Jaisinghani's* case (1967) 2 SCR 702, their lordships of Constitution Bench of Hon'ble Supreme Court emphasised that absence of arbitrary power is first essence of rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion when conferred on executive authorities, must be confined within clearly defined limits. The decision should be predictable and citizens should know where he is. On these broader principles, the authorities have to apply mind and be conscious to ensure that while acquiring land followed by allotment and execution of sale-deed, for the purpose of construction of house or flats the possession is handed over immediately without any obstruction and in case, there is any obstruction, that should be removed by using force.

(10) In *Zenit Mataplast'* case (2009) 10 SCC 388, their lordships of Hon'ble Supreme Court held that development authorities being instrumentalities of States, must act fairly and once land is allotted to a particular citizen, it cannot be allotted to other person. In case, it is done, it shall be arbitrary exercise of power and hit by Article 14 of the Constitution of India. Their lordships further held that by judicial review, the act of the State and its instrumentalities must be examined to ensure that the statutory authority has not acted with arbitrariness, bias or favouritism, and may also grant interim injunction in case situation becomes irretrievable.

(11) In *Hari Bansh Lal vs. Sahoder Prasad Mahto* (2010) 9 SCC 655, their lordships of Hon'ble Supreme Court has also held that it is impermissible for the Government to take a different stand unless there is change of circumstances. While taking a different stand, a plausible explanation may be given by the Government.

(12) In *NOIDA Entrepreneurs Association vs. NOIDA and Other* (2011) 6 SCC 508 Hon'ble Supreme Court held as under:-

"38. The State or the public authority which holds the property for the public or which has been assigned the duty

of grant of largessee, etc. acts as a trustee and, therefore, has to act fairly and reasonably. Every holder of a public office by virtue of which he acts on behalf of the State or public body is ultimately accountable to the people in whom the sovereignty vests. As such, all powers so vested in him are meant to be exercised for public good and promoting the public interest. Every holder of a public office is a trustee."

Needless to say that in case development authority acts in arbitrary manner and without application of mind which may amount to keep the allottees waiting for years to come even after execution of sale-deed with regard to delivery of possession, means authorities have not exercised power for public good and shall not be deemed to promoting the public interest.

(13) In one another case of *Ganesh Prasad 2011 (29) LCD 2541*, the Division Bench of this Court of which one of us (Hon'ble Mr. Justice Devi Prasad Singh) was a member and author of the judgment, after considering catena of judgments of Hon'ble Supreme Court, has held that after depositing entire cost of plot or flat in case the allottee is kept waiting for decades, then it shall amount to unjust enrichment. In such a situation, the allottee shall be entitled for compensation in the form of interest assessed at the rate of 8% per cent. For convenience, relevant portion of the judgment are reproduced as under:-

"99. Admittedly, the petitioner Ganesh Prasad has deposited the entire cost of plot in the year 1984. The entire cost deposited by the petitioner, is lying with the L.D.A. On the one hand, the petitioner has suffered mental pain, agony and financial loss and could not get the possession of plot to construct his own house in the city of Lucknow, on the other, from the money deposited by the petitioner Ganesh Prasad, the L.D.A. Invested the amount in its business. It is the instance of unjust enrichment. Hon'ble Supreme Court in the case reported in *(2011) 8 SCC 161: Indian Council for Enviro-Legal Action*. Vs. Union of India and others, has defined the "unjust enrichment as under:

"UNJUST ENRICHMENT

"152. 'Unjust enrichment' has been defined by the court as the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust. Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another.

153. Unjust enrichment is "the unjust retention of a benefit

to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience." A defendant may be liable "even when the defendant retaining the benefit is not a wrongdoer" and "even though he may have received [it] honestly in the first instance." (Schock v. Nash, A.2d, 232-33).

159. Unjust enrichment is basic to the subject of restitution, and is indeed approached as a fundamental principle thereof. They are usually linked together, and restitution is frequently based upon the theory of unjust enrichment. However, although unjust enrichment is often referred to or regarded as a ground for restitution, it is perhaps more accurate to regard it as a prerequisite, for usually there can be no restitution without unjust enrichment. It is defined as the unjust retention of a benefit to the loss of another or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. A person is enriched if he has received a benefit, and he is unjustly enriched if retention of the benefit would be unjust. Unjust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another."

(14) The Division Bench while holding that non-delivery of plot/flat after deposition of cost, amounts to unjust enrichment, further held that the allottee shall be entitled for payment of interest on the amount deposited for the purpose, to quote para 101 as under:-

"101. In view of the above, since the cost of plot deposited by the petitioner Ganesh Prasad as full and final payment in the year 1984, was lying with L.D.A., and possession has not been delivered on account of abuse of power (supra), the petitioner Ganesh Prasad shall be entitled for compensation in the form of interest which is assessed at the rate of 8% per annum with effect from 1.1.1985."

(15) In the case of Ganesh Prasad (supra), the Division Bench further held as under:-

120. "To curb and control that brute and to prevent the degeneration of society into a state of tooth and claw, we need the rule of law. We also need the rule of law for punishing all deviations and lapses from the code of conduct and standards of behaviour which the community, speaking through its representatives, has prescribed as the law of the land. Being human, disputes are bound to arise amongst us. For the settlement of those disputes, we need guidelines in the form of laws, forums to redress the wrongs in the form of courts, tribunals and advisers who could guide us in the affairs of law, who could represent us in the court of law and in whom we could repose our confidence".

(16) Subject to above discussion, the Division Bench further issued direction

to State Government to create a statutory post or authorise an officer in the Development Authorities of State of U.P., and other departments to decide or adjudicate the public complaints. The mandamus issued by the Division Bench is reproduced as under:-

"(3) A writ in the nature of mandamus is issued commanding the State Government/Principal Secretary, Urban Planning, Government of U.P., to consider to create a statutory post or authorise an officer in the Development Authorities of State of U.P., and other departments to decide or adjudicate the complaints with regard to public grievance/misfeasance in public office in the matter of allotments of lands or plots, payment of interest and compensation and other disputes, etc., within specified period. The decision given by the Officer/authority so authorised, should be final and binding on the departments."

(17) In the case of **Dr. Kailash Singh and Ors vs. State of U.P. and others 2014 (32) LCD 374**, in a Division Bench of this Court of which one of us (Hon'ble Mr. Justice Devi Prasad Singh) was a member, issued direction for constitution of special task force to stop obstruction created by unruly elements in delivering possession of land or plot. Relevant portion from the judgment of Dr. Kailash Singh (supra), is reproduced as under:-

"15. We have been informed by learned Standing Counsel that nodal officers have been appointed to look into such matters, but, we feel that the nodal officers have failed to discharge their obligations except indulging into negotiations with the persons who interfere with the constructions of the houses of the lawful allottees and keep the matter pending for an indefinite period. Accordingly, we dispose of both the writ petitions finally with the following directions :-

1. The District Magistrate/Senior Superintendent of Police, Lucknow shall constitute a Task Force containing sufficient number of persons of Arm Forces like P.A.C. headed by the Sub. Divisional Magistrate and a Deputy Superintendent of Police to deal with such complaints where any person/ association or union interferes with the construction work raised by lawful allottee in the city or district of Lucknow. More than one Task Force may be established to meet out the requirement in the district. The Senior Superintendent of Police, Lucknow shall appoint a police officer not below the rank of Additional Superintendent of Police to monitor the functioning of the Task Force so constituted. District

Magistrate Lucknow shall nominate an Additional District Magistrate to provide necessary assistance.

2. Whenever, a complaint is received that Lucknow Development Authority or U.P. Housing Board has allotted a plot which is a water reservoir or is a pond, then respective Development Authority or Housing Board, shall look into such complaint and in case, in the revenue record, it is found that the said plot is a water reservoir or a pond, then alternative accommodation shall be provided to such allottee immediately say within a period of two months after recording the finding with due communication to the complainant. The Development Authority or the Housing Board, Lucknow shall appoint an officer to look into such complaints to decide whether the plot allotted to an allottee is a water reservoir or a pond in the revenue record or not. Opportunity of hearing shall be provided to the complainant.

3. Right of a citizen to protest against unlawful action of development authority is a fundamental right, but, that protest may be made at appropriate place (not at the allotted plot or vicinity) without disturbing the peace and tranquility of the society and also without interfering with the right of a peaceful enjoyment of the property by a lawful allottee.

4. Whenever, a complaint is received that the lawful allottee intending to raise construction over the premises in pursuance of the sanctioned plan is being prevented by anti-social elements or person or a group of persons or by an association, the Task Force so constituted shall ensure to remove such hurdle and shall further ensure that lawful allottee is permitted to raise construction over the plot in pursuance of the sanction plan and requisite number of police force shall be deployed for the security of the allottee during the construction work, if necessary. It shall be open to police to register F.I.R. & proceed in accordance to law against disturbing elements."

(18) We have been informed that the judgment of Ganesh Prasad (supra), has attained finality after dismissal of SLP by the Hon'ble Supreme Court and the judgment in the case of Dr. Kailash Singh also has attained finality being not turned down by the higher forum.

(19) In **(2005) 6 Supreme Court Cases 344, Salem Advocate Bar Association (II), Vs. Union of India**, Hon'ble Supreme Court held that where, there is abuse of process of law or litigants suffer for no fault on their part, then court must impose costs. In a recent judgment reported in **2011 (8) SCC 249: Rameshwari Devi and others. Vs. Nirmala Devi and others**, Hon'ble Supreme Court has held that, with regard to imposition of costs, courts have to take into consideration the pragmatic realities and should be realistic with regard to plight of litigants in contesting the litigation before different courts. Courts

have to broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses and factors under which a party has been compelled to contest a case in different courts. Their lordships awarded costs of rupees two lakhs in addition to Rs.75,000.00 award by the High Court, while dismissing the appeal with costs, the Apex Court has held as under:-

“54. While imposing costs we have to take into consideration pragmatic realities and be realistic what the defendants or the respondents had to actually incur in contesting the litigation before different courts. We have to also broadly take into consideration the prevalent fee structure of the lawyers and other miscellaneous expenses which have to be incurred towards drafting and filing of the counter affidavit, miscellaneous charges towards typing, photocopying, court fee etc.

55. The other factor which should not be forgotten while imposing costs is for how long the defendants or respondents were compelled to contest and defend the litigation in various courts. The appellants in the instant case have harassed the respondents to the hilt for four decades in a totally frivolous and dishonest litigation in various courts. The appellants have also wasted judicial time of the various courts for the last 40 years.

56. On consideration of totality of the facts and circumstances of this case, we do not find any infirmity in the well reasoned impugned order/judgment. These appeals are consequently dismissed with costs, which we quantify as Rs.2,00,000/- (Rupees Two Lakhs only). We are imposing the costs not out of anguish but by following the fundamental principle that wrongdoers should not get benefit out of frivolous litigation. The appellants are directed to pay the costs imposed by this court along with the costs imposed by the High Court to the respondents within six weeks from today.”

(20) Their lordships of Hon'ble Supreme court while reiterating the principle laid down in the case of *Rameshwari Devi* (supra), with regard to payment of cost, further ruled that it should be the concern of courts and endeavour to ensure that everyone gets just and fair treatment. Courts must take realistic approach to award compensation in order to discourage the dishonest litigation. Courts should not shirk from its responsibility not only to remove a person from wrongful possession and restore the possession to lawful owner but also be compelled to pay for wrongful use of that premises fine, penalty and costs. Any leniency would seriously affect the credibility of the judicial system. No litigant can derive benefit from the mere pendency of a case in a court of law and a party cannot be allowed to take any benefit of his own wrongs. Relevant

paras 161, 162, 163, and 192 are reproduced as under:

“161. The terms `unjust enrichment' and `restitution' are like the two shades of green - one leaning towards yellow and the other towards blue. With restitution, so long as the deprivation of the other has not been fully compensated for, injustice to that extent remains. Which label is appropriate under which circumstances would depend on the facts of the particular case before the court. The courts have wide powers to grant restitution, and more so where it relates to misuse or non-compliance with court orders.

162. We may add that restitution and unjust enrichment, along with an overlap, have to be viewed with reference to the two stages, i.e., pre-suit and post-suit. In the former case, it becomes a substantive law (or common law) right that the court will consider; but in the latter case, when the parties are before the court and any act/omission, or simply passage of time, results in deprivation of one, or unjust enrichment of the other, the jurisdiction of the court to levelise and do justice is independent and must be readily wielded, otherwise it will be allowing the Court's own process, along with time delay, to do injustice.

163. For this second stage (post-suit), the need for restitution in relation to court proceedings, gives full jurisdiction to the court, to pass appropriate orders that levelise. Only the court has to levelise and not go further into the realm of penalty which will be a separate area for consideration altogether.

192. The court's constant endeavour must be to ensure that everyone gets just and fair treatment. The court while rendering justice must adopt a pragmatic approach and in appropriate cases realistic costs and compensation be ordered in order to discourage dishonest litigation. The object and true meaning of the concept of restitution cannot be achieved or accomplished unless the courts adopt a pragmatic approach in dealing with the cases.”

(21) In view of the above, since the cost of plot, deposited by the petitioner as full and final payment, in the year 2006, is lying with the Lucknow Development Authority, and possession has not been delivered on account of abuse of power (supra), the petitioner shall be entitled for compensation in the form of interest, which is assessed at the rate of 8% per annum with effect from 1.1.2007.

(22) In a case reported in **2009 (10) SCC 374: U.P. Cooperative Federation Ltd. Vs. M/S. Three Circles on 10 September, 2009**, Hon'ble Supreme Court has relied upon the 55th Report of Law Commission of 1973 and held that in a lengthy litigation proceeding, there is no infirmity in awarding interest on costs

while awarding damages for wrongful retention of money.

(23) In the case of ***Guruvayoor Devaswom Managing Committee and another Vs. C.K. Rajan and others*** reported in (2003) 7 SCC 546, the Hon'ble Supreme Court observed as follows:

“However, in an appropriate case, although the petitioner might have moved a court in his private interest and for Redressal of personal grievances, the court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice. (See Shivajirao Nilangekar Patil Vs. Dr. mahest Madhav Gosavi).”

(24) This view was further reiterated by the Hon'ble Supreme Court in (2005) 5 SCC 298, ***Ashok Lanka and another vs. Rishi Dixit*** and others, relevant paragraph 42 of which is being quoted below:

"Furthermore it is well settled that even in a case where a petitioner might have moved the Court in his private interest and for redressal of personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice (see Guruyayoo Devaswom Managing Committee v. C.K. Rajan, SCC para 50 and Prahlad Singh versus Col. Sukhdev Singh (1987) 1 SCC 727)."

The same view (supra) was again reiterated by Hon'ble Supreme Court in AIR 2003 SC 4531, ***General Manager, Kisan Sahkari Chini Mills Limited, Sultanpur, U.P. versus Satrughna Nishad***.

(25) Again similar matter cropped up for consideration before this Court in 2006 (4) A.D.J. 106 (All.) (Full Bench), ***Suo Moto Action Taken by the Court Versus I.C.I.CI. Bank Ltd. Allahabad and others***. The Division Bench of this Court dealing with the habeas corpus petition framed certain issues of public importance involved in the case and referred the matter to Hon. The Chief Justice to register as P.I.L. to be decided by the appropriate court. The Chief Justice, Allahabad High Court constituted a Full Bench considering the case of ***Ashok Lanka and another*** (Supra). The Full Bench opined that in a matter the Court, while exercising power conferred under Article 226 of the Constitution of India with regard to private dispute, has got ample power to take suo-moto decision with regard to public interest and it shall not change the nature of the writ petition.

(26) Thus, in view of the law laid down by the Honble Supreme Court in the case of Gurvayur devasam managing committee (supra) and ICCI Ban Ltd. Alld. And other and Ashok Lanka Supra, in a case involving private dispute Court may pass appropriate orders to secure public interest.

(27) One of the argument advanced by the learned counsel for the respondents is that Lucknow Development Authority is entitled to charge higher cost of plot/land in question in view of escalation of price. The argument advanced by the learned counsel for the Lucknow Development Authority would have been accepted by this Court in case Lucknow Development Authority would have executed the sale-deed with simultaneous delivery of possession of plot in question within reasonable period i.e., one month or two, from the date when the petitioner deposited the entire cost of the plot in question i.e., December, 2006. The escalation of price cannot be attributed to the petitioner who has been running from pillar to post and waiting for execution of sale-deed and delivery of possession of plot in question since 2006. The allottee cannot be blamed for any delay caused on account of fault of the respondent Lucknow Development Authority for any reason whatsoever.

In view of above, the allottee is entitled to a plot on the same cost which he has deposited in pursuance of final notice issued by the Lucknow Development Authority, and has been kept in waiting since almost last 5-6 years. However, for any compelling reason if the plot in question may not be delivered, then the Lucknow Development Authority shall allot any other plot of the same size and on the same cost in any other scheme of Lucknow Development Authority expeditiously and execute sale deed with simultaneously delivery of possession.

(28) In view of above, the writ petition deserves to be allowed subject to observations made in the body of this judgment and is allowed in the following manner:-

(A) A writ in the nature of mandamus is issued directing the authorities/respondents to ensure delivery of possession of Plot No.315, type D, Situated in Sector No.6, Gomti Nagar Extension, Lucknow, or any other plot of equal area, in any other scheme of the Lucknow Development Authority, and on the same cost forthwith say, within a period of one month from the date of presentation of a certified copy of the present judgment.

(B) A writ in the nature of mandamus is issued commanding the Lucknow Development Authority Lucknow to consider and execute the sale-deed of Plot in question, in favour of the petitioner, subject to fulfillment of necessary conditions in accordance with Rules, expeditiously say within three weeks, thereafter. The Lucknow Development Authority shall inform the petitioner within two weeks about the required conditions which he has to fulfill for execution of sale-deed and delivery of possession.

(C) A writ in the nature of mandamus is further issued commanding the Lucknow Development Authority to pay interest at the rate of 8% to the petitioner to the amount deposited by him since 1.1.2007 till the date of delivery of possession of plot in question.

(D) A further writ in the nature of mandamus is issued commanding the District Magistrate and Senior Superintendent of Police, Lucknow to provide necessary assistance of task force constituted in pursuance of judgment in the case of Dr. Kailash Singh (supra) to the LDA as well as the petitioner for peaceful enjoyment over the plot in question.

(E) The costs is quantified to Rs.2,00,000/- out of which Rs.50,000/- shall be remitted to the Mediation and Conciliation Centre, High Court, Lucknow Bench, Lucknow. The petitioner shall be entitled to withdraw the amount of Rs.1,50,000/-. Let the costs be deposited within two months failing which District Magistrate, Lucknow, shall recover it as arrears of land revenue within next three months and remit to this Court. Registry to take follow up action. It shall be open to State Government/Lucknow Development Authority, Lucknow to recover the cost or interest, after holding an inquiry, from the person because of whom the petitioner has suffered.

Order Date :- September 12, 2014

Subodh/-

{Justice Arvind Kumar Tripathi- II.} {Justice Devi Prasad Singh}