

Jammu Development Authority Vs. S. Paramjeet Singh & Anr.

Civil Appeal No. _____ of 2023 arising out of SLP(C) No. 4050 of 2023
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Full judgment text

Jammu Development Authority Vs. S. Paramjeet Singh & Anr.

[Civil Appeal No. _____ of 2023 arising out of SLP(C) No. 4050 of 2023]

[Civil Appeal No. _____ of 2023 arising out of SLP(C) No. 9019 of 2023]

[Civil Appeal @ SLP(C) No. 4050/2023]

Leave granted.

This appeal by the Jammu Development Authority¹ takes exception to the judgment dated 02.12.2022 passed by the High Court of Jammu & Kashmir and Ladakh at Jammu.

Respondent no. 1 - S. Paramjeet Singh had participated in a public auction held on 12.04.1999. His bid of Rs.8,30,000/- (Rupees eight lakhs thirty thousand only) for purchase of plot no. 244, Sector 1/Sector 1A, Trikuta Nagar Housing Colony, Jammu², was accepted.

By letter of intent dated 26.05.1999, the JDA had called upon respondent no. 1 - S. Paramjeet Singh to deposit 50% of the premium within 30 days from the date of issue of the letter of intent, and the balance 50% within 60 days thereafter. In case of default beyond six months, interest at the rate of 18% per annum would be charged. Further, on failure, the allotment shall be cancelled, and the earnest money and the first installment shall stand forfeited.

Respondent no. 1 - S. Paramjeet Singh deposited 50% of the premium of Rs.4,15,000/- (Rupees four lakhs fifteen thousand only) within 30 days after issue of the letter of intent dated 26.05.1999. He did not pay the balance 50% of the premium. It is the case of the appellant - JDA that a number of letters were written to

Respondent no. 1 - S. Paramjeet Singh to pay the second installment/balance payment, to which Respondent no. 1 - S. Paramjeet Singh did not respond. Respondent no. 1 - S. Paramjeet Singh denies having received these letters/communications. We have, however, one letter written by Respondent no. 1 - S. Paramjeet Singh, dated 23.05.2001, which refers to the communication dated 02.05.2001³, wherein he was asked to make the balance payment of 50% of the premium.

Balance 50% of the premium amount was not deposited till 2010. Earlier JDA had cancelled the allotment. Accordingly, the appellant - JDA issued an advertisement on 09.12.2010 for a fresh auction, which was published/advertised on 11.12.2010 in newspapers. Immediately thereupon, Respondent no. 1 - S. Paramjeet Singh filed Original Writ Petition (OWP) no. 1483/2010 before the High Court in December 2010.

The appellant - JDA had conducted the fresh auction and had received a bid of Rs.38,00,000/- (Rupees thirty eight lakhs only) from respondent no. 2 - Vivek Mahajan. In view of the aforesaid facts, we fail to understand how Original Writ Petition (OWP) no. 1483/2010 was allowed and LPA No. 58/2022 filed by the JDA was dismissed, with the observation that the allotment in favour of Respondent no. 1 - S. Paramjeet Singh survives and should be acted upon.

The defaults and failure to pay the consideration on the part of Respondent no. 1 - S. Paramjeet Singh are apparent and do not even warrant elucidation. Original Writ Petition (OWP) no. 1483/2010 preferred by S. Paramjeet Singh should have been dismissed. It is pointed out to us that respondent no. 2 - Vivek Mahajan had deposited an earnest money of Rs.2,71,000/- (Rupees two lakhs seventy one thousand only). The balance money has not been paid.

We are also of the opinion that given the time lapse, the plot should be re-auctioned. To balance out the equities, we direct that respondent no. 2 - Vivek Mahajan will be refunded Rs.2,71,000/- (Rupees two lakhs seventy one thousand only) along with simple interest at the rate of 15% per annum.

Earnest money paid by the respondent no. 1 - S. Parmjeet Singh will be forfeited and will not be refunded. Rs.4,15,000/- (Rupees four lakhs fifteen thousand only), less the earnest money deposited by Respondent no. 1 - S. Paramjeet Singh, will be refunded to him with simple interest at the rate of 8% per annum with effect from 01.01.2001.

The impugned judgment is set aside and the appeal is allowed and disposed of in the above terms. Pending application(s), if any, shall stand disposed of.

Civil Appeal @ SLP(C) No. 9019 of 2023

Leave granted.

The appeal is disposed of in terms of the order passed today in civil appeal arising out of SLP(C) no. 4050/2023. Pending application(s), if any, shall stand disposed of.

1 For short, "JDA".

2 For short, "Subject Property".

3 Letter No. JDA/T.N. 244/114 dated 02.05.2001.

Source disclosure: Complete sanitized public judgment text retained for research. Official-primary replacement and later-history closure remain pending.

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