

Court No. - 21

Case :- WRIT - C No. - 6024 of 2018

Petitioner :- Bimal Kumar Agarwal

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Akhank Kumar Jain

Counsel for Respondent :- C.S.C.

Hon'ble Krishna Murari,J.

Hon'ble Ajay Bhanot,J.

Petitioner and respondent No.4 entered into an agreement for sale and purchase of 13672 square feet of land forming part of house No. D-58/19, Sagra, Varanasi for a valuable consideration of Rs.1 Crore. By the resolution Sri Arun Paul, the Secretary of the Trust was authorized by the Board to sign the sale-deed canceled and deliver instrument necessary for purpose of carrying out sale. Subsequently, the petitioner alleges to have paid advance of Rs. 30 Lakhs towards sale consideration and again a resolution dated 21.11.2014 was passed acknowledging the receipt of the advance of Rs.30 Lakhs and the then Secretary Sri Arun Paul to sign two applications and affidavits for permission before the Collector for execution of the sale deed. Subsequently, the Secretary of the Trust made an application dated 6.7.2016 before the District Magistrate, Varanasi to execute the sale-deed on behalf of the trust in favour of the petitioner.

Grievance of the petitioner is that since then the application for permission is pending before the District Magistrate and for want of which till date the sale-deed is not being executed, though despite the petitioner having paid Rs. 30 Lakhs and is ready and willing to deposit the balance amount for sale consideration.

Considering the facts, we dispose of the writ

petition by directing the District Magistrate, Varanasi to take appropriate decision in the matter considering the application made purportedly on behalf of the Lucknow Diocesan Trust Association seeking permission for sale of the plot in question in favour of the petitioner. The decision may be taken by the Collector after notice and opportunity of hearing to the petitioner as well as Lucknow Diocesan Trust Association and record his satisfaction after verifying the matter and the credentials of the parties. Apart from due diligence on all relevant aspects, the Collector shall record his satisfaction on the credentials and authority of the persons executing the documents on behalf of Lucknow Diocesan Trust Association. The Collector shall also enquire into the authenticity of the resolutions dated 8.10.2010, 21.11.2014 and 19.9.2015 allegedly passed by the Lucknow Diocesan Trust Association and annexed to the writ petition.

It is also being made it clear that the application shall be decided by the Collector on its own merits and no observations with regard to the merits of the case have been made by this Court. The decision may be taken by the Collector within three months from the date of production of a certified copy of this order. Since the order is being passed without hearing the Lucknow Diocesan Trust Association, it shall be open to the said party to apply for recall or modification of the order.

Order Date :- 19.2.2018

Ashish Tripathi