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

+ W.P.(C) 10759/2021

JAYANTA KUMAR MISHRA & ANR. Petitioners

Through: Mr. Anshul Gupta, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Harish Vaidyanathan Shankar, CGSC with
Ms. S. Bushra Kazim and Mr. Karan Chhibber
Advocates for R-1/UOI.

Mr. O.P. Gaggar, Advocate for R-3/ UBI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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23.09.2021

At the outset, learned counsel for the petitioners states that petitioner No.2/ Rajul Goswami shall file his own separate petition since his transaction is completely different and it is a different cause of action in his case. Accordingly, petitioner No.2 and respondent No.4/ PNB Housing Finance Ltd. are deleted from the array of parties. Amended memo of parties be filed within a day.

Issue notice. Mr. Harish Vaidyanathan Shankar accepts notice on behalf of the respondent/ UOI; and Mr. Gaggar accepts notice on behalf of respondent No.3/ UBI.

The case of the petitioner Jayanta Kumar Mishra is that he along with his wife had booked a flat with respondent No.5/ Builder. To finance payment of the said flat, the petitioner, his wife, respondent No. 5 and the respondent No.3/ Corporation Bank (which stands merged with respondent No.3/ Union Bank of India) entered into a Tripartite Agreement (Sub-

Venture Agreement). Under that agreement, the entire loan amount was directly released by the bank to respondent No.5/ PSA Impex Pvt. Ltd. The petitioner received no part of the said amount. The Builder has not completed the project. The petitioner claims that he has also paid in excess of Rs.11 Lakhs to the respondent Builder. Now, since the project has not been completed by the Builder and the outstanding loan has not been repaid to the respondent No.3, the respondent No.3 has initiated proceedings before the DRT both against the petitioner as well as the Builder/ PSA Impex Pvt. Ltd.

The submission of learned counsel for the petitioner is that the amount is disbursed by the respondent bank to the Builder recklessly without adhering to the terms and conditions of the Sub-Venture Agreement. Moreover, under the agreement itself, it is the liability of the respondent Builder to repay the loan in the eventuality of the project not being completed and possession not being handed over to the petitioner.

Let the respondent bank file its counter-affidavit before the next date. Till the next date, we direct that though the proceedings before the DRT in the pending Original Application may continue and the DRT may even proceed to pass the final order to issue Recovery Certificate, no recovery shall be made from the petitioner till further orders in these proceedings.

In the meantime, notice be issued to the other respondents electronically.

List on 07.10.2021.

VIPIN SANGHI, J

JASMEET SINGH, J

SEPTEMBER 23, 2021

B.S. Rohella