



\$~22

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

Date of Decision: 18th August, 2026

CNR No. DLHC010311982022

+ **W.P.(C) 12133/2022 & CM APPL. 36263/2022**

SH. NIMIT MUNDHRA AND ORS.

.....Petitioners

Through: Mr. Kundan Kumar Mishra and Mr.
Ratnesh Kumar, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Arunima Dwivedi, CGSC with
Ms. Himanshi Singh and Ms.
Monalisha, Advocates.
Mr. R.V. Sinha, Mr. A.S. Singh and
Ms. Shriya Sharma, Advocates for
R-2/RLDA.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed seeking the following reliefs:

- a) Quash and set aside the order/decision dated 13.06.2022 (signed as dated 13.05.2022) (Annexure No. P33) passed by Respondent No 2 under the signature of Shri RK Srivastava, DGM/ Law/ RLDA (Impugned Decision); and thereby further quash and set aside the order dated 31.08.2020 (Annexure No P24) passed by Respondent No2 under signature of Shri SK Verma, Jt General Manager / MFC which has been upheld by the "impugned decision"; and



- b) Direct the respondent No 2 to make all consequential refunds/ reimbursements/ damages/ compensations as detailed within the paragraph No 70 (pg 50-52) of the present Writ Petition in a time bound manner.
 - c) Quash and set aside the order dated 07.03.2022 referred to and contained within the order dated 18.04.2022 (Annexure No P39) passed by Respondent No 3 and thereafter Direct the Respondents no. 1, 3 and 4 to conduct inquiry including administrative and vigilance inquiry as per law in a time bound manner against the officers/ persons whose names have been mentioned in the Complaint dated 07.09.2020 (Annexure No P34) of the Petitioners and/ or who are/will be found to involved in the said matter (not known to the petitioners);
 - d) That the legal and other costs may be allowed in favour of the petitioners and against the respondents.
2. The brief facts necessary for deciding the present petition are set out below:
- 2.1. It is the case of the petitioner that the respondent no.2/Rail Land Development Authority ('RLDA') had floated a tender on 12th February, 2018 towards a Multi-Functional Complex ('MFC') project at Hazipur Railway Station ('subject site').
 - 2.2. The petitioner was found successful bidder and was awarded lease for the subject site for lease period of 45 years.
 - 2.3. A Letter of Acceptance (LoA) was given in favour of the petitioner on 22nd May, 2018.
 - 2.4. Subsequently, a Lease Agreement was entered into between the petitioner and the RLDA on 15th January, 2019.
 - 2.5. The petitioner paid Rs.6,11,00,000/- as lease premium, Rs.13,86,027/- as interest, and also deposited a bank guarantee of Rs.30,55,000/- as



Performance Guarantee.

2.6. As per the Lease Agreement, possession of the subject land had to be given to the petitioner within thirty (30) days. When the petitioner visited the subject site on 15th February, 2019, the possession was not handed over.

2.7. Certain Alternate sites were offered to the petitioner *vide* letters dated 1st July, 2019 and 8th November, 2019, which the petitioner did not accept.

2.8. In December, 2019, the original subject site was offered to the petitioner. However, the petitioner declined to accept the same on the ground that project is no longer viable.

2.9. The petitioner requested RLDA to terminate the Lease Agreement and refund the money *vide* letter dated 27th July, 2020 and 13th August, 2020.

2.10. On the request of the petitioner, the Lease Agreement was terminated *vide* letter dated 31st August, 2020.

2.11. *Vide* letter dated 29th September, 2020, an amount equal to 75%, i.e., Rs. 4,58,25,000/-, paid by the petitioner to RLDA was refunded. The petitioners also have got a refund of GST amounts totalling to Rs.82,48,500/- on 15th December, 2020. However, the Petitioners did not receive the remaining outstanding amounts from RLDA.

3. Accordingly, the petitioner approached this Court by way of writ petition being W.P.(C) 9571/2020, seeking refund of the remaining amount, which was disposed of *vide* order dated 13th May, 2022 directing the RLDA to decide the representation of the petitioner after granting a personal hearing.

4. RLDA passed a detailed Speaking Order on 13th June, 2022 rejecting the representation filed by the petitioner.

5. Being aggrieved by the aforesaid Speaking Order dated 13th June,



2022, the petitioner filed the present writ petition before this Court.

6. In the counter-affidavit filed on behalf of the RLDA, it is stated that the present writ petition is not maintainable as it raises disputed questions of fact.

7. One of the objections taken in the counter-affidavit is that the writ petition is not maintainable in light of Section 8 of the Arbitration and Conciliation Act, 1996 as well as Article 23 of the General Conditions of the Lease Agreement ('GCLA') executed between RLDA and the petitioner. The relevant extract from the counter-affidavit is set out below:

29. That besides the above facts, it is respectfully submitted that the instant case is not maintainable in the light of Section 8 of Arbitration & Conciliation Act 1996 and as well as in light of Article 23 of General Conditions of Lease Agreement of RLDA, Pt-II whereby it is evident that the instant matter is required to be referred to Conciliation and if dispute does not resolve there, then the party may refer the dispute to arbitration in accordance with the provisions of Article 23.5. It is respectfully submitted that the Hon'ble Supreme Court in the matter of State of U.P & Ors Vs. Bridge & Roof Co. (India) Ltd. as reported in (1996) 6 SCC 22 has observed that in view of the availability of alternative remedy to the petitioner, the writ petition is not entertainable.

8. It is the contention of the petitioner that there was a delay on the part of RLDA in handing over the original subject site and that, consequently, the petitioner was entitled to terminate the Lease Agreement and seek refund of the entire amount paid by it.



9. In this context, the Speaking Order passed by the RLDA specifically notes that in respect of delay, RLDA was willing to adjust the period of delay by extending the lease period. Further, the delay did not constitute a ground for termination of the lease.

10. In this regard, reference may be made to Article 21.3 of the GCLA, which sets out the circumstances constituting an 'RLDA's Event of Default'. Article 21.3(a) provides that failure on the part of RLDA to provide the petitioner the right of way to the site for more than twelve months would constitute an 'RLDA's Event of Default', entitling the petitioner to terminate the agreement.

11. In the present case, the original site was offered to the petitioner on 2nd December, 2019, *i.e.*, within twelve months from the date of execution of the Lease Agreement on 15th January, 2019. Thus, the Speaking Order records that the circumstances contemplated under Article 21.3(a) had not arisen and that there was no breach of the Lease Agreement on the part of RLDA.

12. Further, Article 14.2.3 of the GCLA gives the petitioner a right to seek damages in the event of any failure or delay on the part of RLDA in handing over the right of way to the site. However, it does not confer a right to terminate or otherwise vitiate the Lease Agreement on that account.

13. The Speaking Order further records that the petitioner, without adhering to the provisions of Articles 21.3 and 14.2.3, chose to terminate the Lease Agreement before commencement of Commercial Operation, thereby attracting Clause 13 of the Special Conditions of Lease Agreement ('SCLA'), which provides that that in the event of termination before commencement of Commercial Operation, RLDA shall make a Termination



Payment equivalent to 75% of the total amount of Lease Premium paid by the petitioner to RLDA. The Speaking Order accordingly holds that the decision of RLDA to invoke Clause 13 of the SCLA was just and fair.

14. It is settled law that a writ petition involving contractual disputes and disputed questions of fact is ordinarily not maintainable under Article 226 of the Constitution, particularly where the contract provides for an alternate mechanism for resolution of disputes.

15. A Division Bench of this Court vide judgement dated 13th July, 2021 in W.P.(C) 6434/2021 titled as **Rajkumari Mundra v. Union of India**, while dealing with the cancellation of the Letter of Acceptance issued in favour of the petitioner and the subsequent issuance of a fresh tender for the same parcel of land, held that this Court was not inclined to go into the commercial disputes between the parties, as the same would involve determination of disputed questions of fact, and accordingly gave liberty to the petitioner to avail of the remedies in respect of the tender. The relevant paragraphs of the said judgement are set out below:

*“6. The Letter of Acceptance in favour of the petitioner having been cancelled, the same raises disputes arising out of the contractual obligation. **These disputes are factual in nature and, in case, the petitioner has any grievance, it is for the petitioner to invoke the available remedy arising from the terms of the tender/ Letter of Acceptance. In these proceedings we are not inclined to go into the commercial disputes between the parties which, obviously, would involve determination of disputed questions of facts.** Even otherwise, the conduct of the petitioner demonstrates latches on the part of the petitioner, in now raising the dispute in relation to the cancellation of the Letter of Acceptance after the respondent issued a fresh RFP on 18.05.2021. The petitioner did not take any steps to raise his grievance either before 18.05.2021, or even soon thereafter.*

*7. For the aforesaid reasons, **we are also not inclined to interfere with the fresh RFP issued on 18.05.2021. We, accordingly, dismiss this petition with***



liberty to the petitioner to avail of his remedies in respect of the cancellation of the Letter of Acceptance dated 09.04.2021.”

[emphasis supplied]

16. Having heard the counsel for the parties, in the opinion of this Court, the present writ petition raises disputed questions of fact as well as interpretation of contractual clauses which cannot be entertained under Article 226 of the Constitution of India. These issues necessarily have to be decided in terms of the arbitration clause provided in the Lease Agreement.

17. Counsel for the petitioner submits that the RLDA may take a position that disputes which are subject matter of the present petition are not covered under the arbitration clause being ‘Excepted Matters’. As is evident from the averments made in the counter-affidavit, RLDA itself acknowledges that the disputes are arbitrable. Therefore, the aforesaid apprehension of petitioner stands addressed.

18. Accordingly, the present writ petition is dismissed while leaving it open for the petitioner to invoke the arbitration clause under the Lease Agreement.

19. Needless to state, the time spent by the petitioner in pursuing the present writ petition as well as the previous writ petition filed by the petitioner before this Court would be considered for exclusion for the purposes of computation of limitation in the arbitration proceedings.

20. Pending application stands disposed of.

AMIT BANSAL, J

AUGUST 18, 2026/Rzu