



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

% *Judgment reserved on: 13.01.2026*
Judgment delivered on: 07.04.2026

+ **LPA 11/2026 & CM APPL. 1915/2026**

NITYA VAISHNAVI SINGH

.....Appellant

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Advocates who appeared in this case

For the Appellant : Mr. Karan Nambiar & Mr. Kneev
Raizada, Advocates.

For the Respondent : Mr. R.K. Dhawan, Standing Counsel
with Ms. Nisha Dhawan, Mr. Pawan
Karan Deo, Mr. V.K. Teng and Mr.
K.R. Thadhar, Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present *intra-Court* Appeal has been filed, being aggrieved by the impugned judgment and order dated 24.11.2025 (“**Impugned Order**”) passed in W.P.(C) 17862/2025 (“**Writ Petition**”), whereby the learned Single Judge has dismissed the Appellant’s Writ Petition challenging the forfeiture of the Appellant’s Booking Amount and Deposit of ₹4,00,000/- (Rupees Four Lakhs Only) by the Respondent for the application for



allotment of a Middle Income Group (“**MIG**”) Flat in the ‘First Come First Serve’ (“**FCFS**”) Housing Scheme, Phase-IV.

FACTUAL MATRIX

2. The Appellant applied for a MIG Flat in the FCFS Scheme introduced by the Respondent by depositing ₹4,00,000/- (Rupees Four Lakhs Only) as Booking Amount, as per the Scheme Brochure, which was adjustable against the price of the Flat and was a non-interest bearing deposit as per the Scheme.

3. The Appellant was successful in securing an allotment of a MIG Flat being No. 314, Tower-M, Sector-19B, Dwarka, New Delhi (“**Subject Flat**”) under the FCFS Scheme. Accordingly, the Respondent issued the Allotment-cum-Demand Letter (“**Letter**”) fixing the Disposal Price at ₹1,28,74,387/- (Rupees One Crore Twenty Eight Lakhs Seventy Four Thousand Three Hundred Eighty Seven Only). The Letter adjusted the amount of ₹4,00,000/- (Rupees Four Lakhs Only), which was already paid by the Appellant plus GST from the total cost. Accordingly, the final net demand was raised for ₹1,27,78,407/- (Rupees One Crore Twenty Seven Lakhs Seventy Eight Thousand Four Hundred and Seven Only) taking into consideration other charges as per the Letter.

4. The Appellant had applied for a home loan from the State Bank of India (“**SBI**”) and obtained an in-principle sanction, however, the loan facility was abruptly withdrawn by SBI due to an erroneous CIBIL reporting entry by a third-party concerning the Appellant’s mother’s credit score. The same was entirely beyond the Appellant’s control and the said error was subsequently admitted by the third-party confirming that the default was solely due to their reporting fault.



5. The Appellant submitted a representation to the Respondent seeking an extension of time to rectify the error and pay the balance of the Disposal Price. The Respondent kept this representation 'under active consideration' for a period of more than seven months and the matter was escalated to high-ranking officials of the Respondent, including the Principal Commissioner (Housing) and Director (H-1).
6. The Subject Flat was put up for auction in the Dwarka Housing Scheme-2024 without issuing any Show Cause Notice or Notice of Cancellation to the Appellant. However, the auction of the Subject Flat remained unsuccessful. Thereafter, the Respondent listed the Flat again in a Special Housing Scheme-2025, where the Subject Flat was successfully auctioned at a Base Reserve Price of approximately ₹14.68 Lakhs higher than the Appellant's Allotment Price.
7. Despite securing higher price, the Respondent proceeded to forfeit 100% of the Appellant's Deposit / Booking Amount of ₹4,00,000/- (Rupees Four Lakhs Only). Being aggrieved by such forfeiture, the Appellant sent a Legal Notice dated 01.09.2025 to the Respondent demanding a refund. As there was no response to the Legal Notice, the Appellant preferred the Writ Petition before this Court.
8. *Vide* Impugned Order, the Writ Petition was dismissed upholding the forfeiture of the Booking Amount on the ground that the cap on forfeiture under Regulation 8(3) of the DDA (Management and Disposal of Housing Estates) Regulations, 1968 ("**Regulations**") was inapplicable.
9. Being aggrieved by the Impugned Order, the Appellant has preferred the present Appeal.



SUBMISSIONS ON BEHALF OF THE APPELLANT

10. The learned Counsel for the Appellant submitted that:
- 10.1. The present Appeal raises several issues of law, fact and mixed questions of fact and law. The learned Single Judge committed an error by framing a false dichotomy between 'Booking Amount' and 'Disposal Price', thereby failing to appreciate that the 'Booking Amount' is by very nature and substance a 'Deposit' as defined under Regulation 2(12) of the Regulations.
 - 10.2. The FCFS Scheme was a statutory scheme introduced through Gazette Amendment dated 17.02.2023 under Regulation 28-A of the Regulations and, therefore, the cap of forfeiture prescribed in Regulation 8(3) of the Regulations cannot be overridden by the Brochure.
 - 10.3. In *DDA v. Atul Gupta* 1996 SCC OnLine Del 855, the Division Bench of this Court held that the Regulations apply universally to the disposal of all built-up properties by the Respondent. The Impugned Order has incorrectly distinguished the law laid down in the said decision on the premise that its applicability is restricted to auctions.
 - 10.4. The Respondent cannot evade Regulation 8(3) of the Regulations merely because it administratively chose to demand a reduced fixed amount of ₹4,00,000/- (Rupees Four Lakhs Only) instead of the maximum permissible 20% of the Disposal Price, thereby penalising the Appellant for complying with a concession.
 - 10.5. The Respondent is estopped from denying that ₹4,00,000/- (Rupees Four Lakhs Only) is a statutory 'Deposit' under



Regulation 8(1) of the Regulations given that it treats this amount as 'Deposit' for mandatory refunds to unsuccessful applicants under Regulation 8(4) of the Regulations.

- 10.6. The Respondent cannot be permitted to approbate and reprobate by invoking Regulation 8(3) of the Regulations as source of its power to cancel the allotment while simultaneously disowning the limitation on forfeiture contained in the very same Sub-Regulation.
- 10.7. The Impugned Order has failed to adjudicate the contention of the Appellant regarding 'waiver by conduct' and 'unjust enrichment' by the Respondent. Since the Respondent kept the request of the Appellant for extension of time 'under active consideration' for over seven months from November 2023 to May 2024, the Respondent cannot cancel the allotment retrospectively without a fresh notice fixing a reasonable date for payment or notice for cancellation of the allotment to the Appellant. Further, the Respondent had unjustly enriched itself as, in re-auction of the Subject Flat, the Respondent received approximately ₹14.68 Lakhs higher than the Appellant's Allotment Price. Accordingly, the Respondent suffered no financial loss and in fact made a windfall profit. Therefore, the forfeiture of the Appellant's entire Deposit constitutes a 'Penalty' prohibited under Section 74 of the Indian Contract Act, 1872.
- 10.8. The Impugned Order has rendered the statutory scheme of Regulation 8 of the Regulations internally incoherent by



assigning two contradictory meanings to the term 'Deposit' within the same Regulation 8 of the Regulations as the same constitutes a single indivisible mechanism for payment of Disposal Price of a flat on sale by the Respondent. Such an interpretation is violative of Article 14 of the Constitution of India, 1950.

10.9. In *Ishwar Chand Jain v. DDA* 2024:DHC:1552, this Court has held that Regulation 8(3) of the Regulations is the source of power given to the Respondent for cancelling an allotment. Having invoked Regulation 8(3) of the Regulations for the power to cancel, the Respondent cannot disavow the limitation on forfeiture contained in the very same Sub-Regulation. The Respondent cannot accept the benefit of a provision while rejecting its burden.

10.10. Accordingly, the present Appeal deserves to be allowed by setting aside the Impugned Order and directing the refund of Booking Amount of ₹4,00,000/- (Rupees Four Lakhs Only) along with legal cost, damages and interest, as deemed fit.

SUBMISSIONS ON BEHALF OF RESPONDENT

11. The learned Counsel for the Respondent submitted that:

11.1. Regulation 8(3) of the Regulations has no application in the present case as it deals with the manner of deposit of Disposal Price. The Disposal Price means such price as may be fixed by the authority as defined in Regulation 2(13) of the Regulations and is different from 'Booking Amount'.



- 11.2. Regulation 8 of the Regulations relates to Disposal Price and, therefore, Regulation 8(3) of the Regulations, on which the Appellant has relied upon, relates to forfeiture of 20% of the Disposal Price and not Booking Amount.
- 11.3. In the Circular dated 29.06.2023, whereby FCFS Scheme was launched for Phase-IV, the Booking Amount was ₹4,00,000/- (Rupees Four Lakhs Only) to be adjusted against the cost of the flat. However, the said Booking Amount was non-refundable and liable to be forfeited in case of surrender / cancellation.
- 11.4. The nature of the Scheme required the Booking Amount to be non-refundable and liable to be forfeited as the applicants could apply for online booking of the flat and had a window of 15 minutes to deposit the Booking Amount in online mode so that, once the Booking Amount is paid, the flat stood allotted to the applicant thereby excluding others.
- 11.5. In view of the above, there is no infirmity with the Impugned Order and the same is required to be upheld by dismissing the present Appeal.

ANALYSIS AND FINDINGS

12. We have heard the learned Counsel for the Parties and examined the record available before us.

13. The Circular / Brochure dated 29.06.2023 for launching of DDA FCFS Scheme Phase-IV provides for the process to apply for the said Scheme by selecting a specific flat online and making an online deposit of Booking Amount within a window of 15 minutes. It is provided that during the period of said 15 minutes, the said flat will not be available for selection



by other persons and, therefore, it was advised to ensure availability of required funds for payment of requisite amount for booking. The Scheme further provides that once the Booking Amount is successfully deposited within the window of 15 minutes and confirmed by the bank, the selected flat will be reserved / booked for the applicant and Demand-cum-Allotment Letter would be issued within a period of 24 hours.

14. The Circular also provides that the Booking Amount would be adjusted against the cost of the flat but will be non-refundable and shall stand forfeited in case of surrender / cancellation. It is further stated that the maximum interest-free period for Deposit of cost of flat will be 60 days from the date of issuance of Demand-cum-Allotment Letter. Thereafter, 30 days will be available for deposit of cost subject to levy of interest of 11% per annum. However, if the cost is not deposited within the specified period of 90 days, the allotment of the flat shall stand cancelled without giving any further intimation from the Respondent to the Appellant with forfeiture of entire Booking Amount.

15. Accordingly, the terms of the Circular under which the Appellant had applied for allotment of the Subject Flat were absolutely clear and unambiguous. The Appellant, having availed the benefit of the Scheme as per the terms and conditions of the Circular, cannot seek any relief from this Court contrary to the expressed terms of the Circular.

16. The relief sought for declaring the provision of 100% forfeiture clause in the Circular being *ultra vires* Regulation 8(3) of the Regulations cannot be granted once the Appellant has applied in terms of the said Circular and availed the benefit thereof.



17. Regulation 8 of the Regulations provides as under:

“MANNER OF PAYMENT OF DISPOSAL PRICE

(1) When a property is disposed of by sale, every applicant shall deposit a sum equal to 20 per centum of disposal price, of the property rounded to the next hundred along with the application. Such deposit shall be noninterest bearing.

(2) An applicant to whom the property has been allotted shall have to pay the balance amount of the disposal price (i.e. after adjusting the deposit) within such period as may be specified in the allotment letter.

(3) If the applicant fails to pay the amount within the specified period, the allotment shall be cancelled and a sum of money equal to 20 per centum of the deposit shall be forfeited and the balance refunded.

(4) In the case of such applicants as have not been allotted any property, the deposit specified in sub-regulation (1) shall be refunded.

(5) Authority shall have the sole and exclusive right over the deposit till it is adjusted or refunded with or without deduction as provided in these regulations.”

18. As per the above provision, every applicant has to deposit a sum equal to 20% of the Disposal Price along with the application and, thereafter, the applicant has to pay the balance amount of Disposal Price after adjusting the Deposit within such period as may be specified in the Demand-cum-Allotment Letter and if the applicant fails to pay the balance amount within the specified period, the allotment shall be cancelled and a sum of money equal to 20% of the Deposit shall be forfeited and the balance will be refunded.

19. It is the case of the Appellant that in view of the above provision in the Regulations, the Circular providing forfeiture of 100% of the Booking Amount is not justified. According to the Appellant, the Booking Amount is



the same as Deposit under Regulation 8(1) of the Regulations and, therefore, the Respondent was liable to forfeit only 20% of ₹4,00,000/- (Rupees Four Lakhs Only) and refund the balance ₹3,20,000/- (Rupees Three Lakhs Twenty Thousand Only) in terms of Regulation 8(3) of the Regulations.

20. In *Atul Gupta (supra)*, the Division Bench of this Court has held that Regulation 8(3) of the Regulations places an upper limit on the powers of the authority to forfeit a sum of money equal to 20% of the Disposal Price only and the power of forfeiture of the amount specified in Regulation 8(3) of the Regulations will remain unaffected by any agreement or document and, therefore, the Respondent had no power to forfeit any amount exceeding 20% of the Disposal Price of the flat in question.

21. In the present case, the Disposal Price for the Subject Flat was ₹1,28,74,387/- (Rupees One Crore Twenty Eight Lakhs Seventy Four Thousand Three Hundred Eighty Seven Only) and, therefore, 20% thereof would be approximately ₹25,74,878/- (Rupees Twenty Five Lakhs Seventy Four Thousand Eight Hundred Seventy Eight Only). Accordingly, the Deposit as per Regulation 8(1) of the Regulations would have been the said amount of ₹25,74,878/- (Rupees Twenty Five Lakhs Seventy Four Thousand Eight Hundred Seventy Eight Only). Instead, the Respondent required deposit of only ₹4,00,000/- (Rupees Four Lakhs Only) as Booking Amount for reserving the Subject Flat.

22. If Regulation 8(3) of the Regulations were to apply to the Subject Flat, the amount of forfeiture would have to be calculated at 20% of the Deposit Amount of ₹25,74,878/- (Rupees Twenty Five Lakhs Seventy Four Thousand Eight Hundred Seventy Eight Only) calculated as per Regulation 8(1) of the Regulations. Accordingly, the amount to be forfeited would have



been ₹5,14,976/- (Rupees Five Lakhs Fourteen Thousand Nine Hundred Seventy Six Only) being 20% of the amount of Deposit being 20% of Disposal Price as required under Regulation 8 (1) of the Regulations as per Appellant's own case.

23. Since the amount forfeited by the Respondent is ₹4,00,000/- (Rupees Four Lakhs Only), which is lower than ₹5,14,976/- (Rupees Five Lakhs Fourteen Thousand Nine Hundred Seventy Six Only), i.e. 20% of the Deposit Amount to be calculated at 20% of the Disposal Price, there is no violation of Regulation 8(3) of the Regulations even assuming that the same is applicable to the facts of the present case.

24. Accordingly, in the facts and circumstances of the present case, there is no violation of the law laid down in *Atul Gupta (supra)* as the amount forfeited by the Respondent is lower than 20% of the Deposit, if calculated as per Regulation 8(1) of the Regulations read with Regulation 8 (3) of the Regulations.

25. In any event, the Booking Amount cannot be considered as Deposit in terms of Regulation 8(1) of the Regulations as the same was much lower than 20% of the Disposal Price as required therein. Hence, Regulation 8(3) of the Regulations will not apply in the facts of the present case.

26. The Appellant had never raised any objection at the time of making payment of the Booking Amount that the same is not in terms of Regulation 8(1) of the Regulations. Further, the Appellant had never challenged the stipulation in the Brochure / Circular issued by the Respondent that the entire Booking Amount shall stand forfeited at the time of making the application. Accordingly, in the absence of any objection about the terms of the Brochure / Circular as well as non-compliance of Regulation 8(1) of the



Regulations at the relevant time of applying under the Scheme, the Appellant has no right to challenge the same after the expiry of period for making the balance payment of Disposal Price in terms of the Letter.

27. As regards the contention of the Appellant that the submissions with regard to 'waiver by conduct' and 'unjust enrichment' were not considered by the learned Single Judge in the Impugned Order, the said principles do not apply in the facts of the present case as the terms of the Brochure / Circular were absolutely clear and unequivocal that after expiry of the maximum period of 90 days from the date of the Demand-cum-Allotment Letter, if the balance amount is not paid, the allotment shall stand automatically cancelled and the Booking Amount will be forfeited.

28. In view of the above analysis, none of the prayers sought by the Appellant could have been granted by the learned Single Judge in the Writ Petition, which has been rightly dismissed. Accordingly, the present Appeal is dismissed as being without any merit. The pending Application stands disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

APRIL 7, 2026

sms