

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 2798 OF 2004

M/S. KHORANA TRANSPORT CARRIER

Appellant (s)

VERSUS

JAMMU DEVELOPMENT AUTHORITY & ORS.

Respondent(s)

Date: 22/09/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MR. JUSTICE T.S. THAKUR

For Appellant(s)

Mr. Ashok Mathur,Adv.

For Respondent(s)

Mr. Ashok K. Mahajan,Adv.

UPON hearing counsel the Court made the following  
O R D E R

The Appeal is allowed in terms of the  
signed order. No costs.

(Deepak Joshi)  
Sr. P.A.

(Indu Satija)  
Court Master

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2798 OF 2004

KHORANA TRANSPORT CARRIER

.....Appellant (s)

Versus

JAMMU DEVELOPMENT AUTHORITY  
& ORS.

.....Respondent(s)

O R D E R

This Appeal arises out of a judgment & order dated 01.12.2003 passed by the High Court of J & K at Jammu whereby L.P.A. No. 391/1997 filed by respondent has been dismissed and so also the Writ Petition filed by the appellant against the cancellation of his allotment in respect of plot No. 22, measuring 54 ft x 100 situated at Transport Nagar, Jammu.

Mr. Mathur learned counsel for the appellant argued that a sum of rupees 24,000/- representing 15% of the amount payable for the plot in question had been deposited by the appellant. The balance amount was according to the learned counsel required to be deposited in installments. He urged that there was no doubt some delay in the deposit of the installments, but the appellant had offered to pay the entire amount in lump before the High Court in the course of

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the proceedings pending before it. He further submitted that a bank draft for a sum of Rupees 1,56,000/- had been prepared and submitted by the appellant, but the respondent had not en cashed the same. He contended that the appellant was ready and willing to deposit the amount payable to the respondent together with interest at the rate of 10 per cent per annum from the date the allotment was made in favour of the appellant till the date of actual deposit. He urged that since the appellant has already been put in possession of the land in question and since the appellant has put up a tyre retreading unit on the same, the allotment in his favour could be restored subject to the payment of the principal balance amount together with interest as indicated above.

Learned counsel for the respondent on the other hand submits that the appellant had no doubt offered to deposit the balance amount and in fact deposited the same in the form of bank draft, but the said draft was never encashed by the respondent. He further states that if this Court were to finally grant an opportunity to the appellant to deposit the balance amount the interest rate could not be less than 12 per cent per annum.

Having given our anxious consideration to the submissions made at the bar we are of the opinion that deposit of the balance amount of Rupees 1,56,000/- with interest at the rate of 10 per cent per annum from the date

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of actual deposit before the authority should suffice and serve the interest of justice. In the circumstance, therefore, we allow this appeal set aside the order passed by the High court and quash the order passed by the respondent Authority cancelling the allotment of the plot in question subject to the appellant depositing with the Jammu Development Authority a sum of Rs. 1,56,000/- with interest at the rate of 10 per cent from the date of the allotment till the date of actual deposit. The deposit shall be made within three months from the date of this order. We make it clear that in case the appellant fails to deposit the amount pursuant to this direction the Writ Petition filed by the appellant as also the present appeal shall stand dismissed without any reference to this Court. The appellant shall be free to take back the bank draft deposited by him with the Authority if the same is not already taken back. No costs.

.....J.  
[MARKANDEY KATJU]

.....J.

[T. S. THAKUR]

NEW DELHI ;  
SEPTEMBER 22, 2010

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