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

\+ W.P.(C) 4502/2025 and CM APPL.20822/2025

DELHI INTERNATIONAL AIRPORT LIMITED .....Petitioner

Through: Mr. Saifur Rahman Faridi, Ms. Tanya Gupt and Ms. Ridhima Bhardwaj, Advs.

versus

REAL ESTATE REGULATORY AUTHORITY FOR NCT OF DELHI .....Respondent

Through: Mr. Siddharth Panda and Mr. Ritank Kumar, Advs. for RERA.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 22.04.2025

1. By way of the present petition, the petitioner challenges an impugned notice dated 09.08.2024 and impugned order dated 05.03.2025 passed by the Real Estate Regulatory Authority for National Capital Territory of Delhi (RERA) in proceedings initiated on a complaint filed by an individual in "Re: Illegal plotting being done by DIAL & AAI in Aerocity Area for commercial purposes bearing No. F.1(6)/PR/GC-46/RERA/8/2024".

2. It submitted that the impugned notice and the impugned order are bad in law for being arbitrary and being *ultravires* the Real Estate (Regulatory and Development) Act, 2016. It is submitted that RERA has no jurisdiction to issue the impugned notice inasmuch as its jurisdiction in the statute is limited to transaction / agreement concerning sale of real estate projects resulting in permanent transfer of title. The jurisdiction cannot possibly extend to exercise of functions by the petitioner pursuant to an Operation,

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Management and Development Agreement (OMDA) dated 04.04.2006 entered between the Airport Authority of India (AAI) and the petitioner. It is submitted that under OMDA, the land of IGI Airport is demised to the petitioner on a leasehold basis and only for the limited duration of the term of the OMDA i.e. till 02.05.2036 (further extendable in terms thereof).

3. It is submitted that the petitioner has been granted the right to contract and/or sub-contract with third parties to undertake the functions of the petitioner and grant sub-lease or licence of part of the premises of IGI Airport for the same. These rights are controlled by various conditions of OMDA. It is submitted that it is in pursuance of the rights provided under OMDA that the petitioner has conferred developmental rights to certain third parties for development of commercial properties, on sub-lease/licence basis. However, the said agreements with third parties are not in the nature of sale and are only in the nature of lease/licence to which the provisions of RERA Act would not apply. It is submitted that appropriate jurisdiction objections have been taken by the petitioner in proceedings before the RERA in which the petitioner has been regularly participating without prejudice to its contentions as regards the jurisdiction of the concerned authority.

4. It is noticed that *vide* order dated 05.03.2025, passed by the RERA, the submission of learned counsel for the petitioner is being recorded as under:

> "*7. The Ld. Counsel requested the Authority to decide on the question of maintainability and jurisdiction in the first instance.*"

5. The said order also proceeds to frame two questions which *prima facie* arise for consideration of the authority, which are as under:

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> *"9. In the present case the two questions which prima facia arise are:-*
> *i. Whether DIAL should have registered project of plotting with this Authority since the plotted land area is more than 500 sq mts.*
> *ii. Whether the lessees should also register their official and commercial projects with RERA before sub-leasing to third parties."*

6. Learned counsel for the respondent, who appears on advance notice, submits that while considering the matter, the respondent authority would necessarily, at the very outset, decide the issue of maintainability and jurisdiction. As such, it is contended that the present petition is pre-mature inasmuch as RERA is yet to decide the issue of maintainability and jurisdiction based on the objections raised by the petitioner.

7. It is assured and undertaken that by learned counsel for the respondent, on instructions, that before issuing any substantive directions to the petitioner, the authority would decide, by way of a reasoned order, the issue of maintainability and jurisdiction.

8. In the circumstances, this Court is not inclined to interfere with the proceedings initiated by RERA at the present stage. However, this Court takes on record the aforesaid statement on behalf of the respondent that the issue of maintainability and jurisdiction should be decided at the very outset by the respondent, by way of a reasoned order.

9. Needless to say, the same shall be subject to the legal remedies of the petitioner with regard thereto.

10. No further orders are required to be passed in the present petition.

11. The same is accordingly, disposed of.

SACHIN DATTA, J

APRIL 22, 2025/cl

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