
(2014) 03 DEL CK 0277

In the Delhi High Court

Case No : W.P. (C) 1290/2014 and C.M. Appl. 3834/2014

Bhule Bisre Kalakar Co-operative Industrial Production
Society Ltd. and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-03-2014

Acts Referred:

Citation : (2014) 4 AD 391 : (2015) 214 DLT 638 : (2014) 3 ILR 2233

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Nitya Ramakrishnan, Mr. Sarim Naved and Ms. Ria Singh, Advocate for the Appellant; Neeraj Chaudhari, CGSC, Mr. Raujyot Singh, Advocate for R-1/ UOI, Mr. Rajiv Bansal, Advocate for R-2/DDA, Mr. Neeraj Kishan Kaul, Senior Advocate and Mr. Shalabh Singhal, Advocate for R-3, Advocate for the Respondent

Judgement

Hima Kohli, J.—The present petition has been filed by twenty eight petitioners, including the petitioner No. 1/Society praying inter alia that the respondent No. 2/DDA be restrained from dispossessing them or enabling the respondent No. 3/ Developer from engaging in any building project in the area known as Kathputli Colony opposite Shadipur, Delhi, and further for issuing directions to the respondent No. 2/DDA to consider the proposal put forth by them (Annexure P-18 to P-20 enclosed with C.M. Appl. 3834/2014). Ms. Nitya Ramakrishnan, learned counsel for the petitioners states that the petitioners are craftsman, artists and artisans who have been residing in Kathputli Colony for the past several decades. The petitioners are aggrieved by the In-situ slum development project undertaken by the respondent No. 2/DDA in the year 2008 on a parcel of land measuring 5.22 hectares in Kathputli Colony for constructing 2800 residential units under the EWS category on a part thereof upon entering into a Project Development Agreement with the respondent No. 3 on 04.09.2009, whereunder it was granted a timeline of two years from the date of notice of commencement of work, for undertaking construction on the subject land.

2. It is submitted by the learned counsel for the petitioners that after executing the aforesaid Agreement, the respondent No. 2/DDA had undertaken a survey of the area for identifying the number of households in the colony but the final list drawn up by it was neither placed on their website, nor was it displayed on any public notice board and the basis of conducting the said survey was also not explained. As a result, there are some genuine households, whose names have been left out from the final list and if they are removed from the present settlement, they and their families would be rendered homeless.

3. The second grievance raised by the counsel for the petitioners is that while finalising the layout plan for the purpose of mixed use development at the Kathputli Colony, the respondent No. 2/DDA and the respondent No. 3/Developer did not take into consideration the needs of the residents of the area, who have peculiar requirements in view of the nature of vocations practiced by them that include puppeteering, practicing music, weaving and other performing arts etc., which require special skills and unusual equipments and gadgets. She states that representations on the aforesaid lines were submitted by the petitioners to the respondent No. 2/DDA but they have not been taken into consideration. To substantiate the aforesaid submission, learned counsel draws the attention of the Court to pages 92 and 93 of the documents enclosed with C.M. Appl. 3834/2014.

4. It is next stated by learned counsel for the petitioners that the petitioners do not intend to obstruct the development project in any manner, but they only want an assurance that the project is executed in such a manner that sufficient space is made available for them to undertake the unique character of their vocation and display their skills for earning a livelihood. She states that if the petitioners are given an opportunity to submit their suggestions in respect of the proposed development of the area in question in the context of the common facilities, multipurpose hall, auditorium and other utilities, it will go a long way in improving the quality of their lives and those of the other residents of the area, on the condition that the proposed layout plan (a copy whereof has been handed over by the counsel for the respondent No. 2/DDA to the counsel for the petitioners) abides by the development norms that have been stipulated in the Delhi Master Plan 2021. However, on enquiry, learned counsel concedes that prior to filing the present petition, the petitioners have not made any such representation to the competent authority complaining inter alia that the respondents No. 2/DDA and respondent No. 3/Developer have not adhered to the development norms stipulated in the Delhi Master Plan 2021 or the guidelines laid down therein pertaining to the layout plan of the area. She states that the petitioners may be permitted to make a representation on the aforesaid lines and the respondent No. 2/DDA be directed to consider the same in accordance with the law.

5. Lastly, it is stated by learned counsel for the petitioners that pursuant to the survey conducted by them, the respondent No. 2/DDA has very recently displayed the names of the identified households on their website, who have

been found eligible for In-situ rehabilitation after the development work in the colony is concluded and as a tide over, then they would be entitled to shift to a Transit Camp set up by the respondent No. 3/Developer at Anand Parbat. She submits that those genuine households whose names have been left out from the list and have a genuine grievance in that regard, ought to be permitted to make a representation to the respondent No. 2/DDA for their names to be included in the Final List drawn by the DDA, if found to be eligible.

6. At the outset, Mr. Rajiv Bansal, learned counsel for the respondent No. 2/DDA and Mr. N.K. Kaul, learned Senior Advocate appearing for the respondent No. 3/Developer challenge the very maintainability of the present petition and state that the names of all the persons arrayed as petitioners at Sr. No. 2 to 28 of the memo of parties have already been included in the list of eligible households drawn up by the respondent No. 2/DDA and therefore, they cannot have any grievance that their names have been excluded from the Final list. They contend that in reality there are certain vested interests that the present petitioners seek to represent under the garb of the present petition which is nothing but an attempt to dissuade the other residents from shifting to the Transit Camp, which assertion is vehemently disputed by the counsel for the petitioners.

7. Learned counsel for the respondent No. 2/DDA states that as far as the issue raised with regard to the names of genuine households being left out, the DDA is open to receiving representations from such aggrieved persons so that their grievance can be redressed in accordance with law. He states that DDA is willing to display a public notice in the area and on its website, wherein the requisite documents required to be submitted by such applicants and the timeline for submitting such representations, shall be stated so that their cases can be considered and disposed of in accordance with law. He states that DDA is willing to walk an extra mile so as to iron out any difficulty that may be faced by the residents in submitting their representations at its headquarters and to save time, a Nodal Officer of the rank of a Director, whose temporary office has already been established at the site, shall display the public notice on a notice board in the colony and receive their representations there itself for being processed and decided by the competent authority in accordance with law.

8. Learned counsel for the respondent No. 2/DDA denies the assertion made by the other side that the residents of the colony are plagued with the fear of being left homeless once they leave the colony and there is no certainty of their returning. He hands over a set of documents including a copy of an agreement executed with such of the eligible householders for shifting them to the Transit Camp and for allotment of a dwelling unit at the reconstructed Kathputli Colony and states that all eligible persons shall execute a Tripartite Agreement with the respondent No. 2/DDA and the respondent No. 3/Developer for the said purpose and this being the first In-situ slum development project undertaken by DDA on the basis of a public/private partnership, every care shall be taken to have it implemented smoothly and expeditiously. Copies of the documents handed over

by the learned counsel are taken on record.

9. It is next stated by the counsel for the respondent No. 2/DDA that now that a copy of the layout plan for the purpose of mixed use development of the area has been furnished to the counsel for the petitioners, the petitioners are at liberty to examine the same and submit their suggestions for making the common facilities and common areas more compatible to their needs, but within the scope of the plans as approved by the DUAC.

10. (sic) it is the contention of the counsel for the petitioners that the layout plan approved by the DUAC does not meet the norms stipulated in the Delhi Master Plan 2021 and the said grievance has not been taken up with the respondent No. 2/DDA till date, except for referring to the same for the first time in the present petition, it is deemed appropriate to grant two weeks" time to the petitioners to point out to the respondent No. 2/DDA such of the norms laid down in the Delhi Master Plan 2021 and not complied with while finalizing the layout plan of the area. The said representation shall be considered by the DDA and a response thereto, conveyed to the petitioners, through counsel within four weeks therefrom.

11. The last anxiety expressed by the counsel for the petitioners is with regard to lack of facilities provided in the Transit Camp set up by the respondent No. 3/Developer at Anand Parbat at the instance of the respondent No. 2/DDA, in terms of the Development Agreement. The said anxiety can be easily assuaged by directing five representatives, who are permanent residents in the settlement colony, to visit the Transit Camp at Anand Parbat alongwith Mr. S.K. Jain, Nodal Officer of the respondent No. 2/DDA on 22.03.2014 at 11 A.M. If there are any further facilities required to be provided or deficiencies pointed out, the respondent No. 2/DDA and the respondent No. 3/Developer shall examine the suggestions made and as far as possible, try to provide the same, so that the stay of the relocated households at the Transit Camp can be made as comfortable as is possible.

12. In view of the submission made by the counsel for the petitioners in the course of the arguments that every possible effort shall be made by the petitioners who claim to represent the different communities residing at the Kathputli Colony as also the members of the petitioner No. 1/Society to play a constructive role in persuading all the other residents of the colony to co-operate with the respondents and shift to the Transit Camp after its inspection is conducted as directed above, it is hoped and expected that not only shall the petitioners abide by the aforesaid assurance, they shall also desist from dissuading the other residents or obstructing them in any manner from shifting to the Transit Camp.

13. At the same time, learned counsel for the respondent No. 2/DDA states on instructions from his officer, that till date, no coercive measures have been taken by the authorities to remove any of the residents of the settlement colony for

relocating them to the Transit Camp and every effort shall be made by the respondent No. 2/DDA to play a positive and supportive role in persuading the residents of the colony to voluntarily relocate to Anand Parbat as soon as possible, since a lot of investment has been made by the respondent No. 3/ Developer in setting up the Transit Camp and any further delay in vacating the settlement colony shall result in bringing the entire project to a grinding halt. He however clarifies that the aforesaid assurance given by DDA that it shall play a supportive role to enable the residents of the colony to shift to the Transit Camp should not be interpreted to mean that DDA is permanently precluded from taking appropriate steps available to it in law for relocating the residents in the settlement colony to the Transit Camp, if faced with continuing resistance.

14. It goes without saying that if the respondent No. 2/DDA takes any step to relocate the residents of the settlement colony to the Transit Camp, the same shall be strictly in accordance with the law. It is further clarified that those residents of the settlement colony, who have voluntarily taken a decision to shift to the transit camp, shall proceed to do so unhindered by any third party and the directions issued in this order shall not preclude the other residents of the colony from shifting to the Transit Camp at the earliest. The petition is disposed of alongwith the pending application.

DASTI to the parties.