
(2006) 01 DEL CK 0149
In the Delhi High Court
Case No : LPA No. 951 of 2004

Crescent Public School Society		APPELLANT
	Vs	
Delhi Development Authority		RESPONDENT

Date of Decision : 30-01-2006

Acts Referred:

Citation : (2006) 01 DEL CK 0149

Hon'ble Judges : Markandeya Katju, C.J; Madan B. Lokur, J

Bench : Division Bench

Advocate : Anurag Kumar Aggarwal and Umesh Mishra, for the Appellant; Vice Chairman and Rajiv Bansal, for the Respondent

Final Decision : Dismissed

Judgement

Madan B. Lokur, J.—The Appellant has preferred an appeal under Clause X of the Letters Patent against the judgment and order dated 20th August, 2004 passed by a learned Single Judge in WP (C) No.917 of 2003.

2. The only issue that arose before the learned Single Judge and which arises before us is in relation to the demand of interest as contained in a letter dated 22nd December, 1999 sent by the Respondent to the Appellant. There is no dispute about other amounts that have been mentioned in the said letter.

3. By a letter dated 23rd April, 1991 the Appellant was allotted a plot of land for running a middle school. As per the policy of the respondent a part of the plot was to be built upon and a part of it was to be kept vacant for a play field. As per the allotment letter the Appellant was called upon to pay a provisional amount of Rs.10,91,414/- within 30 days, which amount was paid by the Appellant the next day itself.

4. Thereafter, the Respondent sent a letter dated 13th August, 1991 altering the ratio of land to be constructed upon and the land to be kept vacant for a play field. The change in ratio resulted in a larger area being made available for construction, as a result of which the Respondent raised an additional demand of

Rs.3,72,896/- from the Appellant. This amount was paid by the Appellant well in time.

5. After having made the payment of Rs.3,72,896/-, the Appellant challenged the demand by filing WP (C) No.1817 of 1992 in this Court. In that writ petition, the Appellant made the following prayers:-

- a) call for the records of the case;
- b) quash by issue of writ of certiorari or any other appropriate writ, order or direction the determination of the cost of the land allotted to the petitioner to the extent it is in excess of the price worked out on "no profit no loss" basis on the date the case was sponsored;
- c) quash the further enhancement of cost of land for Rs.19.00 lacs per acre to Rs.26.00 lacs per acre contained in letter No.
- d) quash the charge of further amount at 17.50% of the cost of land on account of the change in policy of allowing 50% of the area for building purpose as against 32.50% which was the norm earlier;
- e) direct Delhi Development Authority to refund the amount of Rs.3,72,896.00 with interest at 18% p.a. reckoned from the date of receipt of the amount;
- f) grant such further relief as may be deemed just and expedient in the facts and circumstances of this case;
- g) and award the costs of the petition.

6. The writ petition was heard along with a batch of other similar writ petitions and was decided by a Division Bench on 21st August, 1998. The decision of the Division Bench is reported as Little Angles Public School Society and Others Vs. Union of India (UOI) and Others,

7. As mentioned above, prayer (c) in WP (C) No. 1817 of 1992 was that the enhancement of cost of land from Rs.19 lakhs per acre to Rs.26 lakhs per acre be declared illegal. This prayer was really in the nature of an anticipatory relief inasmuch as till then no enhancement in the cost of land had been communicated to the Appellant who had assumed that the cost would be enhanced because in several other similar cases, the cost of land was in fact enhanced and there was, Therefore, no reason for the Appellant to believe that it would be given preferential treatment.

8. Since no demand at the enhanced rate was raised on the Appellant, there was no question of the Appellant being granted any stay of recovery of the said amount. Nevertheless, the Appellant did file an interim application being CM No. 3535 of 1992 in that writ petition in which it was prayed that:-

...The operation of the order of enhancement of the cost of land allotted to the petitioner from Rs.19.00 lacs per acre to Rs.26.00 lacs per acre contained in letter No.J-22011/2/89-LD/D.O.I. Government of India, Ministry of Urban

Development (Land Division) to the Vice Chairman, Delhi Development Authority may kindly be stayed during the pendency of this writ petition.

9. On 18th May, 1992 when the writ petition as well as the application were listed, notice was issued by a Division Bench of this Court returnable on 4th August, 1992.

10. On 4th August, 1992, the Division Bench passed the following order:-

Adjourned to 29th September, 1992. Parties to complete their pleadings before the date fixed. Interim orders as before.

11. It will be seen that even though no interim orders were passed, the Division Bench mistakenly directed that interim orders would continue because apparently that was the order passed in the other connected cases. The Appellant did not bring it to the notice of the Court that in its case, there was no interim order which was required to be continued.

12. Be that as it may, when the matter was again listed on 29th September, 1992, the writ petition was admitted for hearing and the interim orders made earlier were confirmed. As mentioned above, the writ petition was dismissed by the Division Bench on 21st August, 1998 and until that date, the Appellant took no steps for bringing it to the notice of this Court or to the notice of the Respondent that there was no interim order in its favor and that the orders passed by a Division Bench of this Court on 4th August, 1992 and 29th September, 1992 proceeded on an erroneous assumption.

13. After dismissal of the batch of writ petitions including that filed by the Appellant, the Respondent issued a letter dated 22nd December, 1999 requiring the Appellant to pay enhanced cost of land which was upheld by the Division Bench in Little Angels. The demand raised on the Appellant was for a sum of Rs.23,89,533/-. This amount as well as other amounts are not in dispute and were paid by the Appellant. However, what is in dispute is the demand raised by the Respondent for payment of interest on the difference of premium on the cost of land, the interest amount being Rs.14,29,507/- and interest on difference in ground rent, the interest component being Rs.89,344/-.

14. Before the learned Single Judge, as well as before us, it was contended by learned counsel for the Appellant that since the demand was raised on the Appellant for the first time on 22nd December, 1999, there was no question of any interest being payable by the Appellant. On the other hand, it was contended by learned counsel for the Respondent that since the Appellant had obtained a stay in respect of enhancement of the cost of land as prayed for in its application being CM No.3535 of 1992 in WP (C) No.1817 of 1992, the demand for interest was justified. The learned Single Judge upheld the demand raised by the Respondent and, Therefore, the present appeal has been filed.

15. We do not find any merit in the appeal.

16. In the letter of allotment dated 23rd April, 1991, it was clearly mentioned that the amount being charged from the Appellant was a provisional amount. Subsequently, when the land rates were revised by the Respondent and it was decided to enhance the cost of land from Rs.19 lakhs per acre to Rs.26 lakhs per acre, several schools including the Appellant felt aggrieved and approached this Court seeking quashing of the enhanced land rates. Although the Appellant had not been issued any demand pursuant to the enhancement, nevertheless, it approached this Court in anticipation and rightly so. The grievance of the Appellant was, like other schools, that the increase in land rates was unjustified. This argument was repelled by a Division Bench of this Court. Had the Appellant not challenged the enhanced land rates, it would, in all probability, have been served with an additional demand by the Respondent leaving it to the Appellant to decide whether to pay the enhanced amount or not. The conduct of the Appellant makes it quite clear that it was not inclined to pay the enhanced rate and that is why it approached this Court by filing WP (C) No.1817 of 1992 along with a stay application, otherwise the present controversy would not have even arisen.

17. Since the Appellant effectively prevented the Respondent from raising a demand on the enhanced land rates, there was no option for the Respondent but to include interest on the delayed amounts due from the Appellant. This is what the Respondent has done by its letter dated 22nd December, 1999. We do not see any reason whatsoever for denying to the Respondent interest on the amount that was due to it, which amount was paid after a considerable lapse of time as a result of the litigation initiated by the Appellant.

18. There is no error in the view taken by the learned Single Judge, which we endorse. The appeal is dismissed.