

(1994) 08 DEL CK 0045

In the Delhi High Court

Case No : Civil Writ Petition No's. 2874 of 1987 and 1475, 1488, 1677, 1724, 1924, 2012, 2031, 2101, 3207, 3509 and 3512 of 1992

Delhi State Entp. Association and Others

APPELLANT

Vs

Delhi State Industrial Development Corporation

RESPONDENT

Date of Decision : 24-08-1994

Acts Referred:

Citation : (1994) 55 DLT 519 : (1994) 30 DRJ 609

Hon'ble Judges : K. Shivshankar Bhat, J

Bench : Single Bench

Advocate : S.K. Mahajan, B.S. Nanda, Swantantar Kumar, R.S. Chaggar and Geeta Mittal, for the Appellant;

Judgement

K. Shivashankar Bhat, J.

(1) Petitioners, in essence, are aggrieved by the fixation of price to the lands and sheds (referred as industrial sheds), by the 1st respondent Corporation (also referred as DSIDC). A stretch of land measuring 26 acres in Rohtak Road was developed and sheds were constructed by DSIDC. They were allotted to young, unemployed entrepreneurs under a scheme evolved to train unemployed engineers in self-employment and then to allot industrial sheds to them to carry on Small Scale industries. Each land with a shed was initially granted on lease, in or about the year 1976 or 1977. Thereafter, there was an announcement that these sheds would be sold to the lessees on hire- purchase basis. According to the petitioners, the promise held out was to charge only actual cost of the land and the cost of construction as the hire- purchase price and that Dsidc has ignored this principle by demanding unreasonable amount as the said price.

(2) The contesting respondents contend that the lessees did not even pay the rents as agreed and huge arrears got accumulated resulting in great burden on the Dsidc, because, Dsidc had borrowed large sums from the banks to finance the project in question. Even an offer of concessional rate has not been accepted by the petitioners under one pretext or the other. In view of the non-payment of

rents, Dsidc initiated proceedings against many of the petitioners under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (P.P. Act for Short). In a few writ petitions the said proceedings are challenged on the ground that the petitioners having accepted the offer to purchase the sheds on hire-purchase, ceased to be the tenants and their continued occupation was perfectly legal and that they are aggrieved only by the price fixed for the hire-purchase; a few of the petitioners mentioned the competence of the "Estate Officer" to take action under the P.P. Act on the ground that he cannot be duly authored.

(3) A detailed reference to the pleadings in these cases is unnecessary, because I am of the view that all the contentions raised by the petitioners are covered against them by judicial pronouncements of this Court.

(4) Mr. S.K. Mahajan, the learned counsel for the petitioners advanced the following propositions: (1) The State cannot act in a manner so as not to disclose the basis as to how it arrived at the cost of these premises; failure to disclose the basis renders the price arbitrary. There is an interim order of this Court directing the respondents to disclose the basis on which cost has been computed; that not being done, respondents are precluded now from sustaining the hire-purchase price as reasonable. (2) State having formulated a policy cannot insist that the petitioners may either accept it or reject it. The implementation of the policy should be in fair and reasonable manner so as to advance the object sought to be achieved by the policy. (3) The terms of the contract relied upon by the respondents are unconscionable and hence void. (4) The rate of rent per month fixed under the Lease deed is Rs. 2,970.00 (as an illustrative case, one of the writ petition is relied upon for the figure), as against the rent of Rs. 1250.00 that would reflect the actual cost revealed from the Study report; hence the high rate of rent is opposed to the principle of no profit, no loss announced in the relevant scheme.

(5) All the propositions are inter-linked and could be considered together. The basic question is whether the price fixed under the hire-purchase scheme is arbitrary and unreasonable, and has been fixed ignoring the announced principle that it will be the cost price arrived at on the basis of "no profit, no loss" principle.

(6) The reasonableness of the price has already been upheld by a Division Bench of this Court in Dsidc Vs. Chandra Prakash ; C.W.P. 4446/1992. Further, I find, Dsidc has explained the underlying principle involved in fixing the price, in its counter affidavit. This apart, I do not find, a definite promise on the part of the respondents that the price to be charged will be the actual cost incurred in respect of the particular land and the cost of construction on it, dehors other charges, and expenditure shouldered by DSIDC. As a matter of legal proposition, it is now fairly established that Courts cannot go into the details of the price-fixation; it is a matter of executive policy as well as a matter of economic policy; under particular circumstances, it may also be a legislative function (vide Collector of Central Excise, Calcutta Vs. Berger Paints India Ltd.,).

(7) A scheme announcing the allotment of sites or flats may give the estimated costs. But in the very nature of things, the said figure cannot be static. Costs get escalated for reasons beyond the control of human agencies. There are instances where it is impossible to envisage the compensation that may have to be paid when a land is acquired, because of the delay involved in litigation. Developmental and construction activities involve several imponderables. Unfortunately, the general impression (which cannot be ignored as baseless) is that pace of the implementation of any scheme by the State and its instrumentalities is not only time consuming but also shadowed by inefficiency and other bureaucratic ills.

(8) The figures giving the estimated cost, in the scheme is only tentative; Vide Bareilly Development Authority and Another Vs. Ajay Pal Singh and Others, , and Premji Bhai Parmar and Others Vs. Delhi Development Authority and Others, . In Premji Bhai's case (supra), the Supreme Court opined at para 12 that the term "no profit no loss" referred in a similar scheme has no statutory flavour which could be enforced.

(9) Doctrine of legitimate expectation" and "promissory estoppel" were also relied upon by Mr. Mahajan. Doctrine of legitimate expectation" operates only in the sphere of facts, and depends upon proof of relevant facts. Basically, expectation generated in the mind of the claimant should be legitimate, in the sense, it should be lawful. A mere hope or a pious wish cannot lead to any legitimate expectation. In Union of India and others Vs. Hindustan Development Corpn. and others, , the Supreme Court pointed out that the doctrine of legitimate expectation" does not give scope to claim relief straightaway from the administrative authorities as no crystallised right as such is involved; further it is subject to any overriding public interest.

(10) I am of the view that in the sphere of price fixation, hands of the administrators cannot be tied by these doctrines. Public interest requires a proper administration of public funds. Public bodies cannot be expected to suffer losses and shoulder heavy financial burdens to meet the alleged expectations of the beneficiaries under any welfare scheme. This principle equally governs the application of the doctrine of "promissory estoppel". (Vide: Union of India (UOI) and Others Vs. Godfrey Philips India Ltd.,).

(11) Actually the question raised by the petitioners does not survive for consideration in view of the decision rendered in Chander Prakash's case.

(12) Some of the lessees did not pay any rent, after filing the present writ petitions; they took the stand that they ceased to be the lessees, having exercised the option to purchase the properties, as offered, subject to the price being determined in these writ petitions. Chander Prakash is one such lessee (who is also a petitioner in one of the writ petitions before me). In the circumstances, Dsidc initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, and when order of eviction was passed against

him, he filed an appeal before the Additional District Judge. The Additional District Judge held that the properties in question ceased to be "public premises", because the Dsidc had made an offer for hire-purchase and had received some amount or had asked the petitioner to pay the amount; Therefore, relationship of Lesser and Lessee ceased to exist. Dsidc challenged this order of the Additional District Judge in C.W.P.4446/1992. The writ petition was allowed by a Division Bench of this Court on 26.11.1993. The decision is reported in (1994) 1 AD 377 Dsidc Vs. Chander Prakash & Another. While considering the question whether the premises in question can be regarded as public premises, the Bench had to go into several aspects of the case, which are raised before me also. The Bench held that Dsidc continues to be the owner of the premises, because, the requisite option was not exercised by the lessees and that the ownership would vest in the lessees only when the last Installment under the hire- purchase scheme is paid. It was contended by the lessee that he had exercised the option to purchase the premises and the fact that writ petition had been filed challenging the fixation of price would not alter the position. This contention was rejected. B.N. Kirpal, J. (as he then was) speaking for the Bench held at page 337 (para 22): "It had been contended before us that the entrepreneurs were willing to purchase the said sheds but there was a dispute with regard to the consideration which was payable. This dispute had led to the filing of the aforesaid writ petition (C.W. 2874/87) which is pending in this Court. A hire purchase agreement is a contract between the two parties. The petitioner had offered to sell the property owned by it at a price which it had fixed. This was the offer which was accepted by some entrepreneurs but not by the respondent and some others like him. After the offer of sale was modified, to the benefit of the entrepreneur's at least thrice, each time in the letter of offer it was stipulated that the same had to be accepted within a stipulated period. We cannot come to the conclusion that filing of a writ petition challenging the price fixed can by any stretch of imagination be regarded as an acceptance of the offer by the respondent. In fact, an essential ingredient in the offer which was made viz. the price, is sought to be challenged. The offer which was made by the petitioner has in fact been rejected by the entrepreneurs, who had filed the aforesaid writ petition." Thereafter the court held that the entrepreneurs who had not accepted the offer for purchase of sheds on hire purchase basis, but may have challenged the price which was demanded were not entitled to continue to remain in premises without payment of anything to DSIDC. In this connection, doctrine of "promissory estoppel" was invoked by the lessee. The Bench held: "It was sought to be contended on behalf of the respondent that the principle of promissory estoppel is applicable and the petitioner cannot resile from the offer which was made to the entrepreneurs. The contention of the entrepreneurs is that the Lt. Governor had stated that the sheds will be transferred to the entrepreneurs on hire purchase basis and that price will be determined after proper evaluation by a body which will comprise Government representatives and representatives of the entrepreneurs. It is with reference to this that Shri Swatanter Kumar has sought to emphasise that the offers of hire purchase were

revised, from time to time, after discussions had been held with the representatives of the entrepreneurs." "The principle of promissory estoppel is applicable when on a promise having been held out the promise acts to his detriment. The said principle, in our opinion, is clearly not attracted in the present case. The sheds were allotted to the entrepreneurs long before the aforesaid statement dated 9th March, 1977 which had emanated from the Lt. Governor. The rights and liabilities of the parties were to be determined in terms of the lease agreements which had been signed. It is that relationship which was to be brought to an end and to be superseded by a fresh agreement of hire purchase, which never came into existence. The entrepreneurs did not in any way act to their detriment on the issuance of the letter dated 9th March, 1977 by the Lt. Governor except that they took that as a license not to pay any more rent to the petitioner herein." The Bench pointed out that it was not for the lessees to insist as to how the price for the premises to be fixed; it was for Dsidc to determine. At page 391, the Bench observed, after referring to a Supreme Court decision:

"IN other words it is for petitioner herein to determine as to at what price it is willing to sell the sheds to the entrepreneurs. Once this price has been fixed it is open to the entrepreneurs either to accept or to reject the same. If the entrepreneurs accept the price then they can enter into hire purchase agreement or purchase the shed by paying 100% of the price. If the entrepreneurs felt that the price was exorbitant or high they were "under no obligation to accept the same and their rights under the terms of the lease executed by Dsidc in their favor would remain un-affected."

Again at page 392 -

"THE petitioner was the owner of the sheds and, according to it, the sheds were offered for sale on the principle of "no profit no loss". It has indicated in the offers made as to what are the elements which have gone into ascertaining the prices at which these sheds are to be sold. Apart from the cost of land and the cost of construction an important element which has been taken into consideration is the interest paid by the petitioner to the banks and the financial institutions. It is not in dispute and in any case we see no reason to disbelieve the statement of the petitioner that the sheds were constructed after it had obtained loans from the banks and other financial institutions. The transaction between the petitioner and the banks and lending institutions, in this behalf, was purely commercial in nature. The petitioner is under a legal obligation to pay interest on the loans taken by it. This being so, the interest part has to be taken into consideration while working out the actual cost of the shed. This has been done when the offer of sale was made. In the letter offering the shed it has been stated by the petitioner that though the banks have so far refused to forego the interest claimed by them but still efforts were being made by the Corporation in this behalf. Mr. Swatanter Kumar informs us that some of the banks have filed suits for recovery against the petitioner and the same are still pending. The suits

are for the principle amount and the interest livable thereon. This being the position it cannot be said that the petitioner was not entitled to include the element of interest in working out the price at which it could sell the sheds to the various entrepreneurs."

" WE, therefore ,do not find any legal justification for the challenge by the proposed purchaser to the price fixed by the proposed seller. At the cost of repetition it is observed that the transaction between the petitioner and the respondent is purely commercial in nature and has to be examined in its proper perspective. Commercially speaking it is for the seller to fix the price, and for the purchaser, either to accept or to reject the same. The seller cannot be compelled by the purchaser to refix the price to its detriment. Of course negotiations between the parties had taken place even with regard to determination of price but when the price has been fixed and a firm offer made there is no legal justification for claiming any right, in a Court of law, to the lowering of the price. In other words it would not be proper for the Court to direct the seller to decrease the price unless of course the Court comes to the conclusion that the action of the seller is arbitrary."

(13) In the above observations, there is a clear and specific finding that the price fixed by Dsidc cannot be challenged and the said price cannot be held to be arbitrary. Earlier, observation which I have already quoted, pointed out that it was entirely for lessees to exercise the option or not, but that they cannot insist that the price should be refixed in the manner they prefer it to be.

(14) I respectfully agree with these observations of the Bench, apart from the fact that I am bound by them. Fixation of price for the property (whether movable or immovable) belonging to the State, for the purpose of selling the property to the public at large is not a matter for judicial exercise unless the price has to be fixed with reference to any statutory formula or under a scheme which enunciates a clear principle, and the attack is that the said principle has not been adhered to. Even in the cases of essential commodities which are required to be supplied to the consumers at reasonable prices, the Supreme Court negated the challenges to the. price fixation in most of the cases.

(15) In the case of The Oil and Natural Gas Commission and another Vs. The Association of Natural Gas Consuming Industries of Gujarat and others, etc. etc., , the Supreme Court made the following observations at page 1870:

"THE notion that the cost plus basis can be the only criterion for fixation of prices in the case of public enterprises stems basically from a concept that such enterprises should function either on a no profit no loss basis or on a minimum profit basis. This is not a correct approach. In the case of vital commodities or services, while private concerns must be allowed a minima] return on capital invested, public undertakings or utilities may even have to run at losses, if need be and even a minimal return may not be assured. In the case of less vital, but still basic, commodities they may be required to cater to needs with a minimal

profit margin for themselves. But given a favorable area of operation, "commercial profits" need not be either anathema or forbidden fruit even to public sector enterprises."

(16) Mr. S.K.Mahajan tried to derive strength from the decision of the Supreme Court in Central Inland Water Transport Corporation Limited and Another Vs. Brojo Nath Ganguly and Another, , and contended that the unemployed graduates had no option not to accept the terms of the leases under which these sheds were given to them and that there was equality in bargaining powers between the parties, resulting in Dsidc imposing its own terms; such of the terms which are unconscionable should be ignored, being arbitrary and vocative of Article 14 of the Constitution of India.

(17) The decision of the Supreme Court was under a different context, of examining a rule governing service conditions which enabled the State instrumentality therein (employer) to terminate the services of an employee without assigning any reason, but by issuing a three month's notice. Cases of the petitioners (who are admittedly entrepreneurs)who took advantage of the scheme to obtain individual sheds on lease basis cannot be compared to that of the job seekers under the State. This apart, not a single writ petition involves any challenge to the terms in the lease deeds. The sole question before me is - whether the price payable by those who opt for hire-purchase could be held as arbitrary & unreasonable ?

(18) Petitioners contend that the Lt. Governor has formulated a clear policy that Dsidc would give sheds on the basis of actual cost and depreciated book value on the date of transfer; however, estimated provisions for the common facilities yet to be completed or under completion are also to be considered. Petitioners rely on clause (iii) of the Circular dated 15th March, 1977.

(19) Above circular has to be read in its entirety. As per clause (iv), "the entrepreneurs would be required to clear the arrears of rent due to be paid to Dsidc before any Hire Purchase Agreement is entered into. The banks may sanction credit facilities for this purpose on selective basis." Last para of the said circular says: "The above mentioned points only indicate a broad outline of the pattern of Hire Purchase, proposed to be offered to the entrepreneurs. Details working of the cost estimates and other terms and conditions are still under negotiation and as such the position stated above may be taken only as provisional, and is subject to change in the light of further discussions with the Bankers and other concerned Authorities.

(20) It is clear that clause (iii) relied upon by the petitioners, is only indicative of a broad outline of the pattern of Hire-Purchase. There is no specific commitment that only the actual cost of the construction would be charged, and the circular does not hold out any particular formula to be applied to arrive at the price to be charged. Further, above circular had been considered by the Division Bench in Chander Prakash's case, and a similar contention of the petitioner was

negatived. In fact, this circular was not the real basis of the offers made to the petitioners.

(21) Mr. Swatanter Kumar, contended that Dsidc was not the owner of the land and its power of disposal was restricted by the Union Government which was the owner of the land. An out right sale of the plots with sheds on Hire-Purchase was not agreed upon by the Central Government. In this connection a letter dated 29.4.1976 from the Ministry of Works & Housing, Government of India, to the Lt. Governor, was referred.

(22) Dsidc also has explained in its counter, the factors which were taken into consideration while fixing the impugned price. I prefer to quote it in extenso: "VI. That the respondents/corporation did not have sufficient funds of their own to construct the sheds in question. Consequently, while gathering some money from within themselves, additional finance was generated by taking loans from various banks including the Punjab & Sind Bank, State Bank of India, Bank of India and Allahabad Bank. The Banks had desired security and were willing to grant assistance and loans on stringent terms with regard to interest rate. The Banks had required security for repayment of creation of equitable mortgage of the land of the Schemes in their favor. The defendants/corporation had obtained the requisite permission from the authorities which had given the permission on the condition that - In the event of the sale of foreclosure of the mortgaged or charged property, the Lesser shall be entitled to claim and recover the such percentage as decided by the Lesser of the unearned increase in the value, of the said land as aforesaid and the amount-of the Lesser's share of the said unearned increase shall be a first charge, having priority over the said mortgage or charge. The decision of the Lesser in respect of the market value of the said land shall be final and binding in all parties concerned." Thus, defendant/corporation have been put to double penalty on account of acts and deeds of the plaintiff and the other allottees like him, against a sum of Rs. 48,55,367.73 paise which was recoverable from the allottees in the Rohtak Road Complex as on 31st March, 1988, the total recovery effected over the entire period was paltry sum of Rs.30,01,422.00 . VII. In view of the defaults of the petitioner and others like him, the defendants/corporations have not been able to meet its liabilities to these institutions who inspire of considerable effort of the defendants corporation have taken recourse to legal proceedings and have filed suits in the High Court of Delhi and other courts for the recovery of their dues. The defendants Corporation have been served with summons in suits filed by some (if the banks alone and these include the following :- Suit No. Particulars Remarks 271/89 Bank of India Suit for recovery of Rs-14,69,24,854. The Vs. plaintiff bank is claiming interest at the D.S.I.D.C rate of Rs. 16.5% p.a. pendente lite. 1329/89 Allahabad Mortgage suit u/o 34 CPC . for the Bank recovery of Rs-3,49,86219.03 ps. The Vs. plaintiff bank is claiming pendente lite & D.S.I.D.C future interests at the rate of 14% p.a. which is being compounded quarterly. As such, the liability has been accruing very rapidly and the total amount has accumulated at more than the principal amount. 1330/89 Allahabad Mortgage suit under Order 34 inter alias

Bank for the recovery of Rs.1,84,24,868.79 ps. Vs. They are also claiming interest at the rate D.S.I.D.C of 14% p.a. 1331/89 Allahabad Mortgage suit for recovery of Bank Rs.1,40,02,734.11. The plaintiff bank is Vs. also claiming pendente lite and future D.S.I.D.C interest at the rate of 14% p.a. 2502/88 State Bank Inter alias the plaintiff is praying for the of India recovery of Rs.5,56,16,264.80ps. and Vs. claiming interest @ 14% p.a. D.S.I.D.C. The D.S.I.D.C. is contesting the claims. VIII. In the suit No.271/89, the petitioner Bank of India had even filed an application under Order 40 CPC for appointment of a Receiver and application for injunction. Various interim orders are being passed against the Corporation for the defaults, acts and omissions of the petitioner and other allottees like him. The Corporation up to 11th July, 1989, had paid Rs.77 lakhs to the said bank in one suit alone while there has been hardly any recovery from the petitioner and a further sum of Rs.66,48,229.77 on 25.10.1988. The petitioner is continuing to enjoy every facility from the Corporation, which is being put to a most unfair and inequitable position inasmuch as lakhs and lakhs of rupees are being paid on account of interest alone to the banks. The Corporation is also required to pay for the services and other common facilities provided by the Corporation to the allottees. The present petitioner on account of property tax, electricity, water charges alone is in arrears to an enormous extent stated herein below. In addition to the foregoing, the defendant/corporation has also taken financial assistance from the Punjab & Sind Bank and Canara Bank which would run to over Rs.1 Crore of principal amount alone. The rent/license fee of the sheds was fixed keeping in view the repayment liabilities of the Corporation towards the bank loan. The repayment of the bank loan with the accrued interest thereon was envisaged to be financed solely through the recovery on account of rent/license fee of the sheds. IX.. In addition to the foregoing, the total property tax liability for the Industrial sheds in the Okhla Industrial sheds in the Okhla Industrial Complex Area Phase I alone up to Rs.28.3.1989, amounts to Rs.1,45,018.00 while for the Rohtak Road Complex, it is Rs.1,80,55,604.00 of the Wazirpur Scheme is Rs.45,01,518.00 Okhla Phase II/I is Rs.87,04,513.00 Lawrence Road is Rs.67,57,483.00 which liability is amounting for defaults of the plaintiff and others like him while they continue to enjoy all the facilities and amenities." Further, it is stated,

"XII.The Corporation respectfully submits that the sheds, in question, have been offered to the original allottees/licensees on High Purchase basis not only at "No Profit-No Loss" basis, but even the services charges have not, been taken by the Corporation. The administration has already reduced the costs from the amounts suggested by the Corporation as per books of accounts. The cost by the Corporation was computed on actual expenditure incurred by the Corporation which includes the payment of debts and interest thereupon, which was taken by the Corporation for construction of these sheds. As the entrepreneurs allottees had failed to pay either the license fee or any other Installments in time and, in fact, has enjoyed the property without making payments for all these considerable period of more than 12 years, the Corporation was exposed to

heavy liability and the banks have instituted suits even for the recovery of the amounts. As such, the cost was suggested by the Corporation at a sum of Rs.406.00 per Sq. Ft. which has been already reduced by the administration and the administration has fixed the cost of R.S.386.00 per Sq. ft. The cost of which the latest higher purchase offers have been sent, in fact, provide even apparent losses to the Corporation and if the cost is further reduced, the Corporation will suffer tremendous loss and damage. Firstly, there is no clear unambiguous and definite representation either by the Corporation or even by the administration. Even assuming the same, there can be no estoppel against the Corporation as there is change in policy and the cost is computed even on loss amount than actually incurred by the Corporation and/or paid on account of interest; as such, it will be against public policy and inequitable to enforce the principle of estoppel against the respondent/corporation or the administration as it will cause tremendous losses running into crores to the Corporation as well as to the public. As such, it is against equity to give any relief to the petitioner in this writ petition."

(23) It was contended by Mr. Mahajan that Dsidc changed its policy frequently and increased the rate exorbitantly .It is unnecessary to go into this contention, because, ultimately what matters, is the price fixed for Hire-Purchase, and the limitation on the judicial review of the said price fixation. Further, when a large number of lessees defaulted and persisted in these defaults, Dsidc came forward to accept rents at a reduced rate and this reduced rate, offered as a concession cannot be relied upon by the petitioners to compare them with the rates applied to fix the hire-purchase price.

(24) When an organisation like that of Dsidc has to fix the sale price of its property, even assuming that it should not exceed the actual cost. there will be several factors contributing to the cost - original cost of acquisition, interest on borrowings, establishment charges, developmental costs, litigation expenses, the need to have some reserve for its other welfare measures, the financial trouble/burden occasioned by the failure of those who derived benefit from the organisation to make prompt payments of the amounts payable by them, the unanticipated and unforeseeable losses and expenditure caused or likely to be caused due to events on which the organisations may not have any control are some of the major factors,

(25) Even in cases, where, levy of fee for services rendered has to be based on the doctrine of quid pro quo, it has been held that the proportionality is not between the individual beneficiary of the service, and the State; it is sufficient -if there is a broad correlation between the fee and the cost incurred towards the services. Vide The Delhi Cloth and General Mills Co. Ltd. Vs. The Chief Commissioner, Delhi and Others, .

(26) Analogy of a "fee" may not be perfect. But, I think, it can be referred for guidance, because, basically, a fee also has to be commensurate with the services rendered.

(27) Petitioners strongly relied on a recent division bench decision in Ashok Kumar Behal & others Vs. Union of India & Others; 52 (1993) Dlt 153. in facts involved therein, the Bench held that the cost of flats charged far exceeded the initial cost envisaged to be charged while annexing the scheme. I do not think, the decision in the said case can be taken as a precedent to govern all cases. (The said decision is pending consideration before a Full Bench of this Court).

(28) Dsidc has placed sufficient material to show that almost all the petitioners did not pay the rents under the leases, and the payments if any are only by virtue of the interim order of this Court. Vast arrears got accumulated; they have been enjoying the industrial sheds for several years; some of them, since atleast for about 10 years have not paid the rents.

(29) No public institution can discharge its obligations to the public properly if the amount due to it is not paid by the beneficiaries of welfare schemes. Petitioners have taken advantage of the writ jurisdiction to continue in possession of public premises all these years, disregarding their obligations under the lease deeds. For them equity and fairness have become a "one way street" where these are to move only towards them and not from them.

(30) Petitioners contend that Dsidc has not maintained proper accounts and there has been severe criticism of its functioning in a "Study Report".

(31) I do not think the petitioners are entitled to rely on the weaker points in the functioning of Dsidc, as a source of strength for their case. As the Division Bench pointed out in Chander Prakash's case, the relationship between the petitioners and Dsidc is purely commercial.

(32) If the cost of the sheds have increased due to the mal-functioning of Sidc, petitioners cannot avoid sharing the burden of the increased cost, assuming that Dsidc is strictly a welfare organisation. In such a situation, funds of Dsidc shall have to be considered as public funds, loss of which shall have to be shared by the members of the public for whose benefit Dsidc has been asked to implement the particular scheme. Welfare schemes also should generate wealth to a substantial extent; otherwise welfare schemes would become schemes of charities. Purpose of the alleged welfare scheme as involved before me is to provide facilities and amenities to unemployed youths, who are expected to use the opportunity to generate wealth; object is not to dole out public funds without earning any return.

(33) Dsidc has pointed out that it was entitled to recover from the Rohtak Road Industrial Complex a sum of Rs.41.22 lakhs per year; but its recovery in view of the defaults committed by the petitioners and others was never more than Rs.2 lakhs per annum.

(34) The scheme is purely optional. Petitioners are not compelled to opt for the hire-purchase scheme. They could have continued as lessees by paying the agreed rents during the periods of the leases.

(35) In a few writ petitions the competence of the "Estate Officer" under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is challenged. Question is concluded by the decision of the Division Bench in Federation of Dsidc Entrepreneurs Association & Others Vs. Union of India & Others; 1993 (4) DL 451. Followings ,the said decision, the contention of the petitioners is rejected.

(36) Having regard to the large amounts of arrears due to Dsidc and its financial burden, any amount of cost that may be awarded would be found a nominal figure. Hence, I am not inclined to award any cost in these writ petitions. In the result all these writ petitions are dismissed. No Costs. Rule is discharged.