

(1996) 08 DEL CK 0012

In the Delhi High Court

Case No : Civil Writ Petition No. 2223 of 1989

Dr. V.N. Gupta Charitable Trust and another

APPELLANT

Vs

Delhi Development Authority and others

RESPONDENT

Date of Decision : 16-08-1996

Acts Referred:

Citation : (1996) 4 AD 90 : AIR 1997 Delhi 50 : (1996) 63 DLT 739 : (1996) 38 DRJ 546 : (1996) 114 PLR 65

Hon'ble Judges : Mohd. Shamim, J

Bench : Single Bench

Advocate : Vipin Sanghi, for the Appellant; Ravinder Sethi, Sumeet Bansal and L.B. Rai, for the Respondent

Judgement

1. The coin which you drop into the withered hand stretching towards you is the only golden chain which binds your rich heart to the loving heart of God."

(Kahlil Gibran -- Secret of Heart)

Thus Realizing the importance of charity and fully conscious of the fact that one of the ways to seek blessings of God Almighty is to do charity, the petitioner thought of establishing a charitable hospital.

2. With the said end in view the petitioner No. 2 moved the application for allotment of land before the respondent No. 1 (vide application dated July 15,1985). Later on the case of the petitioners was also sponsored as per the requirement for the allotment of land by respondent No. 3 i.e. the Directorate of Health i Services, Delhi Administration through their letter dated February 26,1988. The petitioners were allotted a plot of half an acre of land vide letter dated March 23, 1989 (Annexure N) as per their request made vide letter dated January 13,1989 (vide Annexure-M) at the rate of Rs. 19 lacs per acre. The petitioners were, however, very much dis-satisfied with the rate i.e. Rs. 19 lacs per acre which was being charged from them. According to the petitioners they should have been charged at the rate of Rs. 10,000/- per acre. This was the rate

This was the rate at which hospitals were being allotted lands in the year in which the application was moved i.e. 1985. The petitioner however in order to avoid any The at the rate of Rs. 10,000/- per acre. This was the rate at which hospitals were allotted lands in the year in which the on was moved i.e. 1985. The petitioners, however, in order to avoid any controversy and in view of the judgment of the Delhi High Court dated May 8, 1989 in the case of Rose Educational Scientific and Cultural Society (Regd.) and others Vs. Union of India and others, , deposited a sum of Ks. 4,85,750/ - calculated at the rate of Rs. 9.5 lacs per acre as decided by the Court in the above said case. The said amount was deposit-ed without prejudice to the rights of the petitioners to claim the refund of such amount as may become payable to them on finalisation of the dispute with regard to the rate. The petitioners through the present writ petition want the quashment of the direction given to them vide letter dated July 4, 1989 whereby they were asked to deposit the remaining amount of Rs. 4,82,750/- along-with interest at the rate of 18% per annum (vide Annexure R) and the allotment order dated November 17,1988 (vide Annexure-L) allotting them land at the rate of Rs. 19 lac per acre.

3. The respondents through their counter affidavit have traversed all the averments made in the petition. According to the respondents, the land at the concessional rate of Rs. 10,000/- per acre is available to the recognised and aided educational institutions and hospitals and public utility services run by local authorities. The petitioners thus cannot claim land at the above said rate. The respondents have not allotted land to anyone at the above said rate except to the institutions which are managed by local bodies. The present writ petition is false and frivolous. It is liable to be dismissed.

4. It is manifest from the facts canvassed above that the only point which arises for adjudication in the instant case is as to whether the petitioners are entitled to have the land at the concessional rate of Rs. 10,000/-per acre?

5. Learned counsel for the petitioners Mr. Sanghi has argued, with all the vehemence at his command that the petitioner No. 1 being a charitable trust, want to establish and run a hospital to provide free medical aid to the teeming millions of the country and thus they want to cater to their needs, cannot be asked to pay at the rate of Rs. 19 lacs per acre. The learned counsel contends that the fact that the petitioner is a charitable trust is amply clear from the photo copy of the trust deed placed on record (vide Annexure A) and even the Income Tax Department exempted them under S. 80-G of the Income Tax Act from the payment of tax vide their letter dated April 6, 1981 (Annexure-C). According to the learned counsel the earliest notification which deals with the fixation of prices of Government land for allotment to various social, cultural and other organisations is the notification dated November 12, 1981. A close scrutiny of the said notification reveals that hospitals find a mention at Sr. No. D of the said notification and the land is to be allotted to them at Rs. 10,000 per acre. The rate at which the land is to be allotted to the local bodies finds a mention at Sr.

No. E. A perusal of the same reveals that the land for schools, hospital, maternity centres, community centres, library and public conveniences run by local bodies is to be allotted to Rs. 10,000/-per acre. Thus, "hospitals" are a class by themselves and the Central Government for the obvious reasons that the hospitals subserve the interest of the public, they come to the rescue Of a man in the hours of his need and thus it was thought fit and proper to allot land to them at the concessional rate of Rs. 10,000/- per acre. No fresh notification to I revise the said rate was ever issued by the Government of India as is manifest from their letter dated December 3 ,1985 which shows (vide Sr. No- 3) that the rate for the allotment of land to recognised and aided schools, hospitals, etc. shall continue to be Rs. 10,000/- per acre. Hence the respondents cannot be allowed to charge at such an exorbitant rate as Rs. 19 lacs per acre from the petitioners.

6. Learned counsel for the respondents, Mr. Ravinder Sethi, Senior Advocate, and Mr. Sumeet Bansal, have urged to the contrary. They have argued that the land was allotted to the petitioner vide letter dated March 23, 1989. Thus the case of the petitioners Would be governed by the letters dated October 4, 1988 and March 10, 1989 (Annexure S) addressed to the Vice Chairman, Delhi Development Authority, and the Land and Development Officer, Nirman Bhawan, Delhi. The learned counsel contend on the basis of the said letters that the land at concessional rate of Rs. 10,000/ - per acre was to be allotted in those discerning few cases where the aided educational institutions, hospitals and public utility services were being run under the control and supervision of the local bodies. The said fact is amply clear from the notification dated March 10, 1989. The other institutions which fall within the domain of Sr. No. 11 of the letter dated October 4, 1988 were to be charged at Rs. 19 lacs per acre. The petitioners admittedly were allotted land in North Delhi vide letter dated November 17, 1988 (Annexure L). Thus they were liable to pay at the rate of Rs. 19 lacs per acre vide letter dated October 4, 1988 (Annexure-S).

7. The learned counsel while animadverting on the letter dated March 10, 1989 which is the latest letter issued by the Ministry of Urban Development with regard to the rates to be charged for allotment of land to various social, cultural and other organisations in Delhi addressed to the Land and Development Officer and the Vice Chairman of the Delhi Development Authority, has contended that the word "hospitals" which finds a mention therein does not refer only to the hospitals which are being run by the local bodies. The allusion to the hospitals therein is not limited in sense and does not refer to only those hospitals which are under the control and supervision of the local bodies. In fact, it refers to all the hospitals and thus the case of the petitioners would be squarely covered by the said letter. The learned counsel for the petitioners for this purpose wants to read "or" at the place of "and" which has been used in between the words "institutions and hospitals" in the said letter. According to the learned counsel if the said letter is thus read it makes quite clear that the Government wanted to charge the same rate for the allotment of land to each and every hospital and

the said notification could by no stretch of imagination be referred to mean only the hospitals, which are being run by the local bodies. The learned counsel in support of his argument has led me through the enthralling commentary on "Principles of Statutory Interpretation" by Justice G. P. Singh, at page 250 which is in the following words:

"The word "or" is normally disjunctive and "and" is normally conjunctive but at times they are read as vice versa to give effect to the manifest intention of the Legislature as disclosed from the context. As stated by "Scrutton, L. J.: " You do sometimes read "or" as "and" in a statute. But you do not do it unless you are obliged because "or" does not generally mean "and" and "and" does not generally mean "or". And as pointed out by Lord Halsbury the reading of "or" as "and" is not to be resorted to "unless some other part of the same statute or the clear intention of it requires that to be done". But if the literal reading of the words produces an unintelligible or absurd result "and" may be read for "or" and "or" for "and" even though the result of so modifying the words is less favourable to the subject provided that the intention of the Legislature is otherwise quite clear".

8. There is no dispute with the above principles of construction as set out above in the aforesaid commentary. It is true, as argued by the learned counsel, that sometimes "and" is to be read as "or" and "or" is to be read as "and". However, that interpretation is resorted to in those discerning few cases where the intention of the Legislature is not clear; and in case it is not so done in that eventuality the net result of the construction would be absurd and lead to the nullifying of the intention of the Legislature. But where the words used are plain, unambiguous and unequivocal and mean what they say in that eventuality the Courts would not be justified in substituting-one-word for the other or to replace or substitute the words used by the Legislature. It would be tantamount to doing violence to the language used by the Legislature.

With the above background let us now try to find out as to whether there is any such requirement to put the above construction on the said letter and the word "and" used in between the words "institutions and hospitals" is to be substituted by the word "or" ? After very carefully examining the facts of the present case and after having given my anxious thought thereto I am of the view that there is no such need in the instant case. The language of the letter is quite plain, clear, unequivocal and unambiguous and does not stand in need of any replacement or substitution of the words. We have to read a particular statute as it is and not as we wish it to be. Learned counsel for the petitioners no doubt wants to read the letter in his own way in order to further his own interest and thus he wants this Court to read "or" in place of "and" at the aforementioned place which for the obvious reasons he cannot be permitted to do so.

9. Learned counsel for the respondents have led me through a letter dated May 30, 1989 written by Mr. P. K. Tripathi, Commissioner (Land) to Mr. N. Rajagopalan, Under Secretary, Government of India, Ministry of Urban

Development, Nirman Bhawan, Delhi. A perusal of the same reveals that a reference was made to the Ministry of Urban Development in order to clarify their position and stand with regard to the fixation of prices of Government land for allotment to various social, cultural and other organisations. The said letter is being reproduced in order to set at rest the controversy which has arisen in the instant case. It reads as under:--

"Please refer to this office letter No. F. 12(7)85/LSB/Instl/714-15 dated 13-4-89 (copy enclosed for ready reference) on the subject cited above. In this connection, I am to request you to please let this office have your decision expeditiously with regard to charging of rate of the land allotted to the charitable hospitals as they do not enjoy special status so as to finalise the pending matters at the earliest".

In reply to the above query, Shri Rajagopalan made a note at the bottom of the said letter to the following effect :--

"The land rate for charitable hospitals as at "A" above will be the rates notified in the Schedule to the order fixing institutional rates zone wise .

10. Admittedly, the Delhi Development Authority has to charge the rates which are fixed by the Government of India in connection with allotment of nazul land to various social, cultural and other organisations in Delhi vide S. 56(i) which is as under:--

"(1) The Central Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act;

(2)

(a) and (b)

(j) the manner in which Nazul land shall be dealt with after development.

11. It would not be out of place over here in order to illustrate the above point to refer to PDA (Disposal of Developed Nazul Land) Rules, 1981. Rule 5 runs as under :--

"The Authority may allot Nazul land to schools, colleges, universities, hospitals, other social or charitable institutions, religious, political, semi-political organisations and local bodies for remunerative, semi-remunerative or un-remunerative, purposes at the permit and ground rent in force immediately before the coming into force of these rules, or at such rates as the Central Government may determine from, time to time".

12. Thus it is the Government of India which is the final authority to fix the rates for the allotment of lands to various social, cultural and other organisations. The respondents are under an obligation to charge from the organisations to whom the land is allotted such rates as are fixed by the Government of India. They have got no say in the matter of rates which are to be charged at the time of the

allotment of land to the different organisations.

13. It can thus be safely inferred from above that the respondents have correctly charged at the rate of Rs. 19 lacs per acre for a plot of land allotted to the petitioners in North Delhi as per the rates announced by the Government of India vide their letter dated October 4, 1988 and their subsequent letter dated March 10, 1989.

14. In the above stated circumstances, I do not see any force in the present petition. It is accordingly dismissed.

15. The petitioners are allowed two weeks time to deposit the remaining consideration of the plot.

16. Petition dismissed.