
(2009) 07 DEL CK 0054

In the Delhi High Court

Case No : Writ Petition (C) 5577 of 2008

Jai Bhagwan Goel Dal Mill and Others

APPELLANT

Vs

D.S.I.I.D.C. Ltd. and Another

RESPONDENT

Date of Decision : 20-07-2009

Acts Referred:

Citation : (2009) 162 DLT 328 : (2010) 8 RCR(Civil) 3184

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : R.P. Jain, for the Appellant; Renuka Arora, for respondent No. 1, Akanksha Sharma, for Ruchi Sindhwani, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—The petitioner, M/s Jai Bhagwan Goel Dal Mills, a partnership firm, claims that they had two separate industrial units located at khasra No. 570, village Bakoli, Delhi and khasra No. 544/1, village Bakoli, Delhi. The petitioner claims that the industrial unit at khasra No. 570 was for processing of "mansoor pulse. while the unit at khasra No. 544/1 was for processing of "moong pulse..

2. It is stated by the petitioner that the two units were located in non-conforming/residential areas and were asked to be removed/relocated in terms of directions issued by the Supreme Court in order dated 30th October, 1991. Consequent thereupon, Government of NCT of Delhi issued public notice dated 27th November, 1996 inviting applications for allotment of industrial plots/flats for relocation of industries from residential or non-conforming areas to conforming use areas.

3. The petitioner filed two applications for allotment of two separate industrial plots being application Nos. 17547 and 17549. They separately deposited Rs. 1,20,000/- each towards earnest money.

4. The respondent-Delhi State Industrial and Infrastructure Development

Corporation Limited (DSIDC, for short) was given responsibility to process the applications and to make allotments. The two applications filed by the petitioner were processed by them and eligibility letters dated 25th April, 2000 were issued in respect of both applications asking the petitioner to make payment of Rs. 1,05,000/- each. In the draw of lots held on 7th May, 2004, the petitioner was allotted two industrial plots measuring 250 square metres each at a fixed pre-determined price of Rs. 4,200/- per square metre. In respect of application No. 17547, the petitioner was allotted plot bearing No. 65, Sector-4, Pocket C, at Bawana, Delhi and in respect of application No. 17549, the petitioner was allotted plot No. 2, Sector-2, Pocket-E, at Bawana, Delhi.

5. In view of the two allotments, the petitioner also deposited the payments as demanded. However, the petitioner was not handed over possession of the two plots and vide letter dated 8th November, 2006, the petitioner was informed that he can be allotted only one plot of the maximum area. The relevant portion of the said letter reads as under:

This is for your information that two units for which you have applied vide application No. 17549 and 17547 are having same title, same partners having same Municipal Certificate tentamounts(sic) to multiple applications filed by same unit. As under provisions of relocation policy only one plot can be allotted to such units after clubbing the requirement of two, against which only one plot of maximum area can be allotted to the unit.

You are therefore requested to give your option, as to which one of the two plots you will like to retain so that the remaining plot may be cancelled.

An early reply shall be appreciated so that the possession of the plot of your choice can be given at the earliest.

6. There is no doubt that the respondents should have been careful while processing the applications and should not have issued eligibility letters and allotment letters in respect of two plots. The petitioner was made to arrange for funds to make payments for the two plots. In this connection, the petitioner is right in contending that the application form, which was filed by the petitioner way back in 1996 did not contain any specific condition or term that multiple applications cannot be made and the person who has separate industrial units cannot file separate applications for allotment of separate plots. However, at the same time, it cannot be ignored that large number of industrial units, which were operating from non-conforming/residential areas had to be accommodated and plots available were limited. The plots were being allotted at a pre-determined price, which was much lower than the market price. Maximum number of persons eligible were to be accommodated.

7. The respondents have placed on record Office Memorandum dated 20th July, 1999 regarding implementation of Cabinet decision dated 7th June, 1999 and the decision taken during the 3rd meeting of the High Powered Project Implementation Committee in respect of Relocation Scheme. In the said

memorandum it is stated as under:

(vii) Units which are functioning from more than one premises and submitted separate applications in respect of each premises, the requirement of plot area of all the locations should be clubbed together and if it exceeds 400 sq.mtrs. then the provisions proposed for larger units should be applied.

8. It is clear from the aforesaid paragraph that where separate units were functioning even from different premises, the requirement of the plot and need for relocation were required to be clubbed together. If the total area exceeded 400 sq.mts. provisions applicable for larger units were to be applied.

9. The respondent-DSIDC ultimately could not allot plots of 400 square metres. Due to large number of applications and the plot size was restricted and reduced to 250 square metres. The aforesaid decision has been taken by the respondents in larger public interest keeping in view the scarcity of land, number of applications and with a view to provide alternative industrial plots to maximum number of applicants, who were required to shift.

10. In this connection, it may be appropriate to mention that in the application form itself in paragraph 7(i) relating to mode of allotment, the respondents had reserved their right as to allocation of plots. The relevant portion of the application form reads as under:

7. Mode of Allotment:

i) In case the number of eligible applications is very large, decision of Commissioner of Industries as to the suitability of a particular unit and the area/ locations where a unit should be relocated will be final and binding.

ii) The Commissioner of Industries reserves the right to accept/reject any/all applications or alter any of the conditions under which these applications have been invited without assigning any reason. No correspondence in this regard will be entertained.

11. Thus the respondents had retained right to decide about allocation and allotment of plots, depending upon number of eligible application etc. and also had the right to reject applications albeit, for valid and good reasons.

12. The last contention raised by the petitioner was with reference to a note in the application form under the heading guidelines. The said guidelines and the note read as under:

GUIDELINES (Column wise)

1. In Column No. 1 of the Application Form, Code Numbers of the category of industry as per details given below be indicated:

Sl. No. Category of Industry Code No.

1. Food Processing & allied Products 01

2. Drugs and Pharmaceuticals 02
3. Electronics and Telecommunications 03
4. Textile and Textile based wearing apparels 04
5. Electrical goods including appliances 05
6. Auto Parts, Light Engineering and Service 06 industries
7. Printing, Paper Products and allied packaging 07
8. Plastic, Polymer and allied packaging 08
9. Rubber based products 09
10. Leather goods 10
11. Coir and Jute Products 11
12. Furniture, Fixtures, and other wood based products, cane and bamboo products 12
13. Petroleum based products & Plastics Processing 13
14. Ceramics and allied Products 14
15. Machinery and Machine Tools 15
16. Chemical Products 16
17. Others, not classified elsewhere including service enterprises 17

(Please note that if a single application is made for more than one group, it will be automatically rejected).

13. The guidelines had bifurcated various industries into 17 different categories. An applicant applying for alternative plot for resettlement was to specify the category of industry as per the code number assigned in the application form. The note in the said application form stipulates that only one code number can be given in the application form. An application with two or more codes would be rejected. Thus, each applicant was required to specify one industry as per the category mentioned in the guidelines. The applicant could not make an application for two or more categories. In case, it is not possible to accept the contention of the petitioner that the note indicates that the applicant could make multiple applications and were entitled to allotment of multiple plots. This is not stated in the said note and does not logically flow from the said note.

14. The petitioner has been allotted one plot of 250 square metres, which is the maximum size of the plot under the Relocation Scheme.

15. The respondents in their counter affidavit have also stated that the municipal licence relied upon in the two applications is the same and mentions the same address and, therefore, it is not correct that the petitioner had two units

operating from two separate addresses. Learned Counsel for the petitioner states that the municipal licence was obtained only for one unit but there was evidence to show that the second unit was also functioning. I need not examine this issue in view of the discussion above and the decision of the respondent in terms of Cabinet meeting held on 6th July, 1999 and 3rd meeting of the High Powered Project Implementation Committee as mentioned in the order/guideline dated 20th July, 1999.

16. In response to the letter dated 8th November, 2006, the petitioner without prejudice to their rights and entitlement, exercised their option and have taken possession of plot bearing No. 65, Sector-4, Pocket C, at Bawana, Delhi. The amount deposited by the petitioner in respect of the other plot has been refunded to the petitioner by the respondents. 17. Learned Counsel for the respondent, at this stage, states that the petitioner has returned the said cheque. The respondents will revalidate or issue a new cheque and refund the amount paid by the petitioner against the application No. 17549 within a period of three weeks from today by sending the said cheque by registered post. In view of the above, I do not find any merit in the present writ petition and the same is dismissed.