

(2009) 08 DEL CK 0387

In the Delhi High Court

Case No : Writ Petition (C) No's. 7099, 7100, 7101 and 7102 of 2007

Risal Singh, Nanak Chand, Neelam and Dharam Pal

APPELLANT

Vs

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

RESPONDENT

Date of Decision : 26-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0387

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Rohit K. Modi, for the Appellant; Ruchi Mishra, for the Respondent

Judgement

Sanjiv Khanna, J.—These writ petitions are being disposed of by this common order.

2. The land of the petitioners at Vill. Holambi Kalan, Narela was acquired for development of Narela Industrial Complex. The petitioners have received compensation for the said land as per the Land Acquisition Act, 1894.

3. In 1997, respondent-DSIDC invited applications for allotment of shops at Narela Industrial Park from persons/members of displaced families whose land had been acquired for development of Narela Industrial Complex.

4. The petitioners deposited Rs. 15,000/- like other applicants for allotment of specific shops as mentioned in the 1997 Brochure/Scheme. The said Brochure/Scheme had indicated the number of shops, covered area of each shop and the total cost of each shop. The said Brochure/Scheme further clarified that each applicant was entitled to apply for only one shop and in case an applicant applies for more than one shop, his application shall be rejected.

5. The petitioners were not successful and shops were not allotted to them under the 1997 Brochure/Scheme in the draw of lots held as more than one eligible person had applied for the same shop. The respondent-DSIDC however retained Rs. 15,000/- deposited by the petitioners to consider them for allotment under a

new scheme as and when floated.

6. In 2000, the respondent-DSIDC published another Brochure/Scheme for allotment of specified shops as stated therein. The 2000 Brochure/Scheme again indicated the number of shops, covered area of each shop and the total cost of each shop. Each applicant was required to apply for one shop only and in case of multiple choice for more than one shop, the application was liable to be rejected. The petitioners accepted the terms mentioned in the 2000 Brochure/Scheme and made applications for being considered for allotment and also specified the shop in which they were interested.

7. The petitioners were given preference in allotment even when there were multiple applications for the same shop as they had initially applied for allotment of shops under the 1997 Scheme/Brochure and Rs. 15,000/- deposited by them was retained by DSIDC. Thus, in case of multiple applications for allotment of one shop, allotment was made in favour of the petitioner concerned. No draw of lots was held. Thus the petitioners were to be given preference over others who had made applications for the first time under the 2000 Brochure/Scheme. However as the shops were allotted as per the 2000 Brochure/Scheme, the petitioners were called upon by allotment letters dated 19th July, 2006 to pay the amount as specified in the 2000 Brochure/Scheme. The petitioners made representations against the price fixed in the 2000 Brochure/Scheme. The representations were considered and the prices were revised downwards and fresh demand letters at reduced prices were issued in 2007. Thus the shops were offered to the petitioners at a price lower than the price mentioned in the 2000 Brochure/Scheme on the basis of which the petitioners had exercised their option for allotment of the shop.

8. The petitioners are not satisfied with the price demanded by DSIDC. They claim that the shops should be allotted at the 1997 prices. It is not possible to accept the said contention. The 1997 Brochure/Scheme was for specific number of shops stated in the said Brochure. The shops mentioned in the said Brochure/Scheme were available. Each applicant was required to specify one shop in which he was interested and wanted allotment. An applicant could not ask for allotment of more than one shop. In case more than one eligible candidate had applied for one shop, selection was through draw of lots. In the draw of lots, the petitioners were not successful and the shops were allotted to the other eligible applicants. The shops offered for allotment under the 1997 Scheme/Brochure were located at Facility Centre No. IV.

9. 2000 Brochure/Scheme is a new scheme with shops mentioned therein. Shops were in Facility Centre Nos. II, IV and VII. Each applicant was required to specify the particular shop he was interested in. No applicant could specify more than one shop. The 2000 Brochure/Scheme also stated that in case number of applicants was more than one, allotment would be made by draw of lots. The covered area of the shop and the price payable for each shop was specifically stipulated in the 2000 Brochure/Scheme. The petitioners exercised their option

and made their choice for allotment of one shop by submitting an application under the 2000 Brochure/Scheme. While submitting the said application, the petitioners were aware of the price demanded and payable by them in case of allotment. As the petitioners had deposited Rs. 15,000/- under the 1997 scheme/ Brochure and the amount had remained with DSIDC, they were given preference in allotment even if there was more than one applicant for the said shop. The petitioners were given preferential treatment and allotments were made to them ignoring new/fresh applications made under the 2000 Brochure/Scheme.

10. The petitioners cannot question the price fixed under the 2000 Brochure/ Scheme. They were aware of the price of the shop and had made a considered decision by exercising their choice. The 1997 Brochure/Scheme was for specific shops and close ended. The 2000 Brochure/Scheme was a new Scheme, independent and separate.

11. Learned Counsel for the petitioners has drawn my attention to letter dated 27th November, 2002 written by respondent-DSIDC stating as under:

Subject: Allotment of shops in FC.II, IV and VII at Narela Indl Park.

Sir,

This is in continuation to our letter of even No. dt.24.6.2002 on the subject cited above. In this connection I am directed to inform you that draw of lots for allotment of shops at Narela Indl Park to the villagers whose land has been acquired for development of Indl. Park and have applied for allotment of shop during the year 1997 and 2000 is scheduled to take place on 10.12.2002 at 2.00 PM at DSIDC Administrative Block Bldg, Narela.

Further draw will be conducted first for the applicants who had applied for allotment of shop in 1997 and allotment will be made to them as per the terms and conditions and rates laid down in the brochure issued in the year 1997. After the draw amongst aforesaid applicants, the applications of remaining applicants who had applied during 2000 will be put in draw of lots and allotment will be made to them as per the terms and conditions and rates laid down in the brochure issued in the year 2000.

The draw will be conducted irrespective of the offer received for size/location/ center. You are also requested to bring this letter to attend the draw of lots. On the day/time as mentioned above.

12. It is accordingly submitted that the respondent-DSIDC had agreed and accepted that the rates applicable and mentioned in the 1997 Brochure/Scheme will be applied to the petitioners who had initially made applications made for allotment under the 1997 Brochure/Scheme.

13. The respondents-DSIDC in the counter affidavit have clarified the reason and cause why letter dated 27th November, 2002 was written and what had caused the confusion. It is pointed out that under the 2000 Brochure/Scheme, 59 shops

in Facility Centre No. III, 51 shops in Facility Centre No. VII and 6 shops in Facility Centre No. IV were available for allotment. The 6 shops in the Facility Centre No. IV mentioned in the 2000 Brochure/Scheme were constructed and were also available in the 1997 Brochure/Scheme but for want of applicants or otherwise could not be allotted. In these circumstances, it was decided that the applicants who had initially applied for allotment under the 1997 Brochure/Scheme but were not allotted shops, the rates as per 1997 Brochure/Scheme would apply to these 6 shops in facility centre No. IV. However, the applicants who had applied for the first time under 2000 Brochure/Scheme would be liable to pay the rates as applicable in the year 2000 in respect of 6 shops in facility centre No. IV. The aforesaid paragraph in the letter dated 27th November, 2002 was written with reference to 6 shops in Facility Centre No. IV. In view of the said explanation given by DSIDC, I do not think that benefit can be given to the petitioners on the basis of the said letter. The said letter could have been better worded and proper explanation should have been given. But this by itself in view of the terms and conditions in 2000 Brochure/Scheme will not entitle the petitioners to allotment on the basis of the rates as per 1997 Brochure/Scheme. The contention of the petitioners that they are entitled to shops at the rates under the 1997 Brochure/Scheme and the rates mentioned in the 2000 Brochure/Scheme are not applicable to them is not correct

14. The relevant portion of the interim order dated 26th September, 2007, reads as under:

I have considered the brochures. Facially there is no provision except the one enabling respondents to enhance the cost increase in the event of their having to pay higher compensation upon a notification issued by the Government of NCT of Delhi. Admittedly, all the applicants were offered the shops since they were owners of land that were acquired for development of the complex. In these circumstances the respondents are hereby directed not to take steps to cancel the allotment, (if not already done), of the petitioners during pendency of the proceedings, provided the petitioners deposit the equivalent to 60% of the sum demanded within four weeks from today with the respondents. This is subject to the outcome of the proceedings. In the event of the petitioners succeeding and in any event returning to the respondents the appropriate interest at 10% may also be directed to pay to them.

15. In view of the aforesaid, the petitioners have deposited 60% of the demanded amount and 40% of the balance amount remains to be paid. The petitioners are given option to pay the balance amount of 40% along with interest @ 10% p.a. in terms of the Order dated 26th September, 2007. Interest will be paid on the balance amount w.e.f. 26th September, 2007 till payment is made. 40% of the balance amount will be paid within six weeks from today.

With the aforesaid observations, the writ petitions are disposed of.