

(2012) 07 SC CK 0027

In the Supreme Court Of India

Case No : I.A. 42-43 in C.A. No. 6962 of 2012, I.A. No. 44 in I.A. No. 40 in C.A. No. 6962 of 2005 and I.A. No's. 45, 46, 47, 51, 52, 54, 55, 56, 57, 58 and 59 in C.A. No. 6962 of 2005

R.K. Mittal and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 16-07-2012

Acts Referred:

Citation : (2012) 9 SCALE 160

Hon'ble Judges : Swatanter Kumar, J;Ranjana Prakash Desai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. IA No. 55 is dismissed as withdrawn.

2. Learned Counsel for the NOIDA Authorities has placed on record the status report dated 16th July, 2012 showing the various steps that the authorities have taken in furtherance to orders of this Court. Having heard the learned Counsel appearing for the parties at some length, we pass the following directions:

1. Admittedly, the lease deed has been executed in various branches of the State Bank of India. Let possessions of the plots be handed over to them within one week from today.

2. Within 15 days from today, the drawings/plans for sanction of the Authority for raising the construction should be filed. The plan shall be considered by the Authority concerned within a period of two weeks. Thereafter, appropriate orders be passed and communicated to the Banks. The construction in accordance with the sanction plan should be completed within seven months from today. In the event, any of the conditions afore-noticed is not complied with by the Authority or the State Bank of India, none of them would be entitled to any extension and the bank premises being run from the residential premises shall be sealed.

3. In regard to the Indian Bank, it is stated that though they have deposited the amount but the lease deeds could not be executed for the reason that the stamp paper in relation to one plot has not been filed, while in relation to other, there is some litigation pending before the High Court of Allahabad. Learned Counsel appearing for the Bank submits that the stamp paper have already been filed.

We consider it totally unnecessary to go into this controversy. The official of the Bank shall show it to the learned Counsel appearing for the Authority the proof of the stamp papers having been submitted to the NOIDA Authority. No stay has been granted by the Allahabad High Court and we see no reason as to why the lease deed in favour of the Indian Bank should not be executed. Let that be executed within two weeks from today. Rest schedule as directed in the case of SBI shall also operate in relation to Indian Bank. If Indian Bank does not comply with these directions, their premises in the residential area shall also be liable to be sealed after the expiry of the afore-stated period.

4. With regard to E-37, Sector 55, let the Chief Manager of the Bank file an affidavit within one week from today that the commercial activity of the Bank from the residential area has been stopped. In the event, this is not done, the NOIDA Authority shall seal the premises.

5. Learned Counsel appearing for the NOIDA Authority, upon instructions from the Chief Architect, who is present in Court submits that ATMs are operating from the commercial area or in group housing area. Let such ATMs, wherever permissible under the bye-laws, be permitted to continue.

6. United Bank of India submits that one Branch from Sector 27, NOIDA has already been shifted to Sector 18, NOIDA in a commercial area, the Branch in Sector 33 shall also be shifted to the same premises. However, they pray for two months' time to vacate and stop commercial activity from the premises presently occupied by them. Time, as prayed for, is granted. In the event, the activity is not stopped within two months from today, NOIDA Authority shall seal the premises in the residential area.

7. In the case of HDFC Bank, the lease deed has been executed. However, the remaining steps need to be taken and transaction completed. The schedule for HDFC Bank shall be the same as in the case of SBI afore-indicated.

8. NOIDA Authority shall refund the money in relation to the plots which have not been allotted to SBI within two weeks from today.

9. Union Bank of India, Bank of Maharashtra, Punjab and Sind Bank and any other Bank where the lease deeds have been executed by NOIDA Authority in their favour and remaining steps need to be taken before they vacate their premises from the residential area, the same schedule as provided to SBI shall apply.

10. Learned Counsel for the Authority submits that in relation to the Allahabad Bank, he will ask the authorities to examine the matter and expedite execution

of the lease deed in their favour.

11. Learned Counsel appearing for the Authority has brought to our notice the order dated 29th May, 2012 passed by the Civil Judge, Sr. Division. The Order runs contra to the judgment of this Court and in fact permits what is specifically been directed not to be permitted in the residential area under the bye-laws. There shall be interim stay of the order of the learned Civil Judge, Sr. Division.

We also express a pious hope that the learned Civil Judges would consider such cases, if any, filed before them with interim orders, in accordance with the law stated by this Court and not pass any interim orders which would be in conflict with the judgment of this Court.

12. We also direct issuance of notice to the Plaintiff Ghanshyam Chauhan in that suit being suit No. 549 of 2012 fixed for 19th July, 2012.

13. Liberty to the learned Counsel appearing for the Authority to serve the letter of service in Court when the case is called out before the learned Senior Sub-Judge.

14. On behalf of certain applicants and even other interested persons including the banks, an issue has been raised that the NOIDA Authority should be called upon to formulate a scheme for allotment of alternative accommodation to them, in commercial areas. It is averred particularly when they have vacated the residential areas from where they were carrying on their commercial activity. Let counsel for the NOIDA Authority take instructions in this regard.

3. Stand over for two weeks.

4. IA No. ...of 2012 in C.A. No. 10535/ 2011 Chairman Noida v. Mange Ram(D) through L.Rs. (Appln. By M/s. Shivalik Medical Centre P. Ltd.) be also tagged along with these IAs.