
(2002) 09 DEL CK 0150

In the Delhi High Court

Case No : CW No's. 3837, 5387, 5747 and 5774 of 2000

Saluja Builders

APPELLANT

Vs

DDA

RESPONDENT

Date of Decision : 23-09-2002

Acts Referred:

Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 — Rule 2(1)

Citation : (2002) 09 DEL CK 0150

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : S.P. Sharma, for the Appellant; Rajiv Bansal, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Kishan Kaul, J.—This order will dispose of four writ petitions which have been filed seeking directions against the respondent to charge the land price/premium @ Rs. 5,200/- instead of Rs. 7,700/- and to refund the excess amount charged from the petitioner as premium for allotment of plots in Keshopur, New Delhi along with interest.

2. The petitioners were running business at Andheria Mor and were issued notices in pursuance to certain directions passed by the Supreme Court in the case of M.C. Mehta v. Union of India. The structures of the petitioner along with 78 other shops were removed on 3.4.96 and a public notice was published on 27.1.1997 stating that the persons would be charged @ Rs. 5,200/- per square metre. However, the demand-cum-allotment letters issued on 31.3.1998 charged the rate at Rs. 7,000/- per square metre. The petitioner paid the amounts without protest. However, subsequently one of the persons filed a writ petition CW 4074/98 Lamba Electric Works v. DDA challenging the said increase. The said writ petition was allowed on 8.12.1999 and it is thereafter on the basis of the said judgment that the present writ petitions has been filed. Learned counsel for the respondent however, submits that the petitioners would not be entitled to the

same relief since they have not paid under protest but paid unconditionally. It is further contended that a notification dated 11.2.2000 was issued and the Government of India, Ministry of Urban Development in exercise of the powers conferred under the Delhi Development Authority (Disposal of Development Nazul Land) Rules, 1981 notifying the pre-determined rate of Rs. 7,000/- per square metre of the land in Dwarka for allotment to marble dealers and automobile workshops evicted from South Central Ridge.

3. In so far as the allotment of plots in Keshopur is concerned, the rates published vide notice dated 27.1.1997 were modified by a corrigendum dated 19.12.2000 issued in the "Navbharat Times" intimating the rates of allotment of the plot in Keshopur may be read as Rs. 7,000/- per sq. meter for the year 1997-98. Further a circular dated 1.1.2001 was issued by the Director (Lands) of DDA to the following effect:--

"Delhi Development Authority had invited applications for the allotment of Plots at Keshopur at the rate of Rs. 52,000/- per Sqm. This rate was considered as per the PDR for the year 1996-97. Now the Ministry of Urban Development, Government of India has notified the pre-determined rates of Rs. 7,000/- per Sqm. of land for marble dealers and automobiles work shop evicts from South Central Ridge for the year 1997-98. The rates for allotment of plots at Keshopur may Therefore be read as Rs. 7,000/- per Sqm. for the year 1997-98."

4. The aforesaid circular was expressly communicated to the petitioner as is apparent from the circular itself. It is further stated that the change in the rates made by Ministry of Urban Development, Government of India is in terms of the statutory rule in the form of Rule 2(1) of the DDA (Disposal of Development Nazul Land) Rules and that the DDA is bound to follow the said rates.

5. In view of the aforesaid, notification, in my considered view, the petitioner cannot be treated at par with Lamba Electrical's case (supra) as there is no challenge in this writ petition to the said notification. It is also relevant to note that the petitioner had paid the amounts without protest. As to what would be the consequence of the same need not be gone into in the present proceedings. In my considered view the writ petition will not survive for consideration.

6. Dismissed.

7. However, liberty is granted to the petitioner to take out appropriate civil proceedings in accordance with law, in case the petitioner is so advised, for challenge to the notification in question and for consequent refund of the money.