

(2005) 03 DEL CK 0121

In the Delhi High Court

Case No : WPC 889, 890, 891 and 892 of 2005

Sh. Jagat Singh and Others

APPELLANT

Vs

DSIDC Ltd. and Others

RESPONDENT

Date of Decision : 10-03-2005

Acts Referred:

Citation : (2005) 118 DLT 546

Hon'ble Judges : Gita Mittal, J

Bench : Single Bench

Advocate : R.K. Saini and N.R. Sharma, for the Appellant; Anusuya Salwan, for the Respondent

Final Decision : Dismissed

Judgement

Gita Mittal, J.—The present writ petition impugns the action of the respondents in rejecting applications of four of the sons of Sh. Mithan Lal whose land was acquired for individual shops on the ground that as per the scheme for allotment of shops to persons whose land was acquired, the expression "Displaced Family" would include one member of the family of the "Recorded owner" only and that Mithan Lal was the only "recorded owner" of the land acquired whereas the petitioners were only his representatives and entitle to shares in the compensation awarded to Mithan Lal.

2. The undisputed facts giving rise to the petition are that one Sh. Mithan Lal was the owner of a 14th share in land at measuring 67 Bighas 7 bids was in village Bhorgarh, Delhi. From the documents placed on record by the petitioner, it is evident that this land was notified for acquisition u/s 4 of the Land Acquisition Act, 1989 in the year 1963. The award with regard to this land came to be made vide award no. 19/78-79 dated 12th June, 1978. The purpose of acquisition appears to be for planed development of Delhi. This acquired land was earmarked for development of an industrial complex known as the Narela Industrial Park.

The admitted position is that possession of the land was taken by the land acquisition collector on 10th July, 1978. Compensation payable under the statutory scheme of the Land Acquisition Act was paid on 18th November, 1978.

3. It appears that the authorities had identified the creation of Narela Township as an industrial complex to be developed by the Delhi State Industrial Development Corporation as part of the integrated development of the plan of Narela. The industrial complex which was to be developed was to cover an area of 240 hectares and was earmarked for industrial activity. In addition to the industrial plots which were developed, seven facility centres to cater to the basic needs of the industries were planned spread over the various sectors of the complex.

For purposes of allotment of the commercial spaces in these facility centers, the respondents had published "BROCHURE FOR ALLOTMENT OF SHOPS AT NARELA INDUSTRIAL PARK".

In this brochure, the respondents had notified that the allotment of shops is only for the persons/members of the displaced families whose land had been acquired for the development of the industrial complex.

4. The petitioners are stated to have made applications for allotment of shops/spaces at the Narela Industrial Complex vide application nos. 123, 124, 126 and 127. The required amount of Rs.15,000/- was also duly deposited by them on the 13th December, 1997. The draw of lots for allotment of the shops was conducted by the DSIDC on the 12th August, 1988 as per the letter dated 4th August, 1998 received by the petitioners from the respondents and all the petitioners were notified that allotments were made to them against their applications in the draw of lots held. Thereafter the petitioners were notified vide letter dated 10th December, 1998 to comply with formalities and deposit amounts.

The petitioners have pointed out that they made the deposit of the notified amounts of Rs.42,250/- vide receipts dated 8th January, 1999 and 25th January, 1999 respectively. Further amount of Rs.57,500/- deposited on 9th February, 1999 and that they also deposited the documents required as per clause 22 of the letter dated 10th December, 1998.

5. It appears from the documents filed by the petitioner that the DSIDC had appointed a committee for looking into the eligibility conditions for allotment of shops which had scrutinised the documents submitted by the four petitioners. Pursuant to such scrutiny, the DSIDC appeared to have addressed letters dated 19th May, 2000, to the four petitioners whereby it was contended that as per the eligibility conditions laid down in the brochure at clause 5(c) for the allotment of shops in F-C(iv), only one person from each of the displaced family was eligible for allotment.

Accordingly, the petitioners were given a notice to show cause to explain as to why the provisional allotment of the shop made in the name of each of the

petitioners be not withdrawn. The petitioners appeared to have addressed a letter dated 16th June, 2000 in reply to this notice and sought proper guidelines from the DSIDC. It was contended that the petitioners had deposited the entire amount as was required by the DSIDC.

6. The DSIDC thereafter sought further information from the petitioners for proceeding in the matter vide letters dated 4th July, 2002 issued to the petitioners. This information was sought in terms of a proforma which was required to be verified by the Land Acquisition Collector. This letter also notices that the original allotment made in terms of the offer dated 10th December, 1998 was provisional and that scrutiny of the documents submitted by the petitioner was effected subsequently. The petitioner complied with this on 11th July, 2002. Thereafter the respondents considered the matter and passed the order dated 7th November, 2002 holding that only one shop can be allotted to the heirs of Sh. Mithan Lal.

7. The decision dated 7th November, 2002 has been impugned by way of the present petition principally on the contention that the DSIDC has changed the definition and criterion for allotment. This writ petition was listed on the 18th January, 2005. Keeping in view the nature of the issues raised, counsel for both parties submitted that the petition can be disposed of on the basis of the record filed with the writ petition only. Accordingly the matter was heard at length at that stage itself on the request of the parties. According to the submissions made on behalf of the petitioners, they were the land owners and were all members of different families. It was firstly contended that as such the DSIDC had no jurisdiction to change the definition and criterion to interpret the expression "displaced family" to mean only the family of the recorded owner.

The second contention made on behalf of the petitioners is that an offer was made to the petitioners of allotment by the DSIDC vide the letter dated 10th December, 1998. Pursuant thereto, the petitioner accepted the offers and made full payment thereof.

The DSIDC having accepted the payments is precluded on the ground of application of principles of promissory estoppel from taking a decision to the prejudice of all the petitioners and cannot be permitted to withdraw the allotments made in favor of the petitioners.

8. The respondents have submitted that the action of the DSIDC was in accordance with the scheme of allotment which was duly announced. The respondents have vehemently contended that there was no change in the scheme of allotment. It has further been submitted that in view of the law laid down by this court, the petitioners have no right to claim allotment of the shop inasmuch as they have been compensated by disbursement of the compensation under the Land Acquisition Act, 1998. The respondents have further submitted that the petitioners were fully aware that only one shop could be allotted to one displaced family. The petitioners were merely heirs of late Sh. Mithan Lal who

was the owner of the land and in whose favor the award has been made. It has further been submitted that the allotment in favor of the petitioners vide the letter dated 10th December, 1998 was clearly provisional. No benefit could be taken by the petitioner for having made payment in terms thereof. The same letter required the petitioners to submit documents which place beyond any doubt that only one member of a displaced family or one member of the family of a deceased land owner who was entitled to the shop. Reliance has been placed on the documents required by DSIDC in para 22 and 23 of this letter.

9. I have given my considered thought to the submissions made. The scheme for allotment itself postulates that only one member each of the displaced family whose land has been acquired for development of the industrial complex would be eligible.

10. The writ petitioners have stated that Sh. Mithan Lal was the owner of land which was so acquired. It is stated that he died on 3rd April, 1978 and at the time of his death he had six sons. The four writ petitioners were four out of his six sons who at the time of his death were living separately and individually from him Along with their own families. Averments in this behalf have been made in para 1 and para 6 of the writ petition which read as under :-

"1. That the petitioners are citizens of India. All of them sons of late Shri Mithan Lal, who was the recorded owner of the demised land as on the date of notification U/s 4 but died about 3 months before the announcement of the award.

6. That Shri Mithan Lal died on 03.04.1978 and at the time of his death, all the four petitioners were living separately and independently from him, along with their own families. A true copy of the death certificate is annexed herewith marked as Annexure P-3. True copies of the ration cards etc. of the petitioners are annexed herewith collectively marked as Annexure P-4."

Therefore, it is the case of the petitioners themselves that there was no joint status of the petitioners and Sh. Mithan Lal, the deceased land owner and that the four petitioners were not living as part of the family of late Sh. Mithan Lal.

It is an admitted position that Sh. Mithan Lal was the only recorded owner and had pursued the award proceedings in such capacity. The petitioners have also admitted that late Sh. Mithan Lal was the recorded owner of the land.

11. The copy of the award no. 19/78-79 dated 12th June, 1978 has been placed on record by the petitioners as annexure P-1. Perusal thereof shows that late Sh. Mithan Lal had participated in the acquisition proceedings and in response to notices issued u/s 9 and 10 of the Land Acquisition Act, had lodged the claim for compensation in respect of the land. The award no. 19/78-79 was made in respect of the claim lodged by Sh. Mithan Lal.

As Sh. Mithan Lal died, the petitioners and their two other brothers have received the compensation from the Land Acquisition Collector not on account of their

being the land owners. They have also not received the compensation as members of "the family" of Sh. Mithan Lal but by virtue of their relationship as sons of Sh. Mithan Lal and consequent succession as heirs/legal representatives to the compensation awarded to him. Admittedly, the petitioners were not living with Sh. Mithan Lal as members of his family. They were all living independently with their respective families. Ration cards in this respect have been placed on record. According to the petitioners themselves, they did not form part of the family of the displaced land owner of Sh. Mithan Lal and were living separately. As per the information given by the petitioners and the certificate of the land Acquisition Collector placed on record, the petitioners were not the recorded owners of the land.

12. It is necessary to examine the conditions notified in the "Brochure For Allotment Of Shops At The Narela Industrial Park" to decide the issues raised before me.

The eligibility conditions were laid down in clause 5 of the brochure and the material term in respect thereof reads as hereunder :-

"5. ELIGIBILITY

a) XXXX

b) XXXX

c) Only one member each of the displaced families whose land had been acquired for development of this Industrial Complex shall be eligible.

d) Only one shop shall be allotted to one applicant and that one applicant will not be allowed to apply for more than one shop. In case the applicant applies for more than one shop than his/her application shall be rejected and he/she shall not be considered for allotment. All the members of the family of the displaced person can apply for allotment of a shop/Kiosk/office space/canteen but only one shop/Kiosk/office space/canteen will be allotted to one such member of the said family.

e) XXXX

f) XXXX

g) If no. of eligible candidates for a particular shop/shops is more than its numbers then the shop/shops shall be allotted through draw of lots.

The Corporation may adopt any method for allotment of shop as the competent authority may deem fit and proper in the circumstances.

h) Decision of DSIDC regarding allotment of space shall be final and binding on the applicant."

The scheme of allotment also included the power to surrender or cancel the allotment which was as hereunder :-

"8. SURRENDER OR CANCELLATION

In case of allotment of shop/office space made to an applicant is sought to be surrendered/cancelled, the allottee shall be liable to pay 10% of the registration deposit as cancellation charges, if the request for surrender/cancellation is made within 1 month of date of allotment. In case of refund/cancellation is made after one month of the date of the allotment interest @ 18% per annum on the amount due w.e.f. The date of issue of the allotment letter shall be charged in addition to deduction of 10% of the registration deposit. Like wise, if the allotment of shop is cancelled by DSIDC for non payment of balance amount, the allottee shall be liable to pay the interest @ 18% for the delayed period in addition to the payment of aforesaid cancellation charges. In case the period of default exceed 3 months the allotment of shops will be liable to cancelled."

17. ARBITRATION

Dispute, if any, regarding allotment or any of its terms and conditions shall be referred to the sole arbitration of the Chairman-cum-Managing Director, DSIDC , or any other person nominated by him and in his absence by Managing Director or such authority which is notified to discharge the duties and functions of the Chairman-cum-Managing Director of the corporation.

The Arbitrator so appointed may be a DSIDC employee and No Objection whatsoever on this score will be entertained by DSIDC . In the event of the Arbitrator so appointed being unable to act or carry on with his job or vacating his office, the Chairman-cum-Managing Director, DSIDC shall appoint another person to be his successor who will pick up the thread from where it was left by his predecessor. Subject as aforesaid provision of the arbitration and conciliation act 1996 and the rules applied there under for the time being in force shall apply to arbitration proceedings under this clause.

It is also a term of this clause that if the applicant fails to make any demand for arbitration in writing within 90 days of cause of action, the claim of the applicant will be deemed to have been waived and absolutely barred and DISDC shall be discharged and relieved of all the liabilities in respect of these claims.

19. GENERAL

i) The above terms and conditions will be followed generally, but DSIDC reserves its rights to alter any of them if and when considered necessary.

ii) The DSIDC also reserves its right to withdraw the scheme at any time."

13. Admittedly, this consideration for allotment of shop was in addition to the compensation received for acquisition of the land under the Land Acquisition Act.

14. Perusal of the letter dated 10th December, 1998 issued by the DSIDC notifying the petitioners about the provisional allotment shows that the intimation given to the petitioners was that the DSIDC was provisionally offering shops to the petitioners for allotment. The petitioners were required to fulfill

certain formalities which include the following :-

"22. You are further requested to deposit the following documents with the DSIDC within one month :

- (i) An attested copy of Khatoni/LR-4/LR-5, as the case may be;
- (ii) Copy of Partnership Deed (in case of Partnership) ;
- (iii) SC/ST/Ex-Serviceman Certificate of competent authority (in case of SC/ST/Ex-Serviceman);
- (iv) Certificate of mutation (in case of mutation);
- (v) Affidavit declaring legal heirs of the deceased in case of death of the person whose land was acquired;
- (vi) N.O.C. from all the legal heirs of the deceased;
- (vii) Death Certificate of the deceased;
- (viii) Attested copy of the Ration Card.

23. It is hereby clarified that the allotment has been made on the declaration, information furnished by the applicant and believed to be correct by the Corporation. In the event of any information/declaration found to be incorrect, false or in any way untrue or that any mis-representation made to the Corporation and in the event of any breach being committed by the applicant of the terms and conditions of Brochure, the allotment, letter and such other conditions as imposed by the Corporation from time to time, the Corporation shall have right to cancel the allotment."

15. There is also no dispute to the information or the certificate given by the Land Acquisition Collector as was sought vide the letter dated 4th July, 2002.

The petitioners appeared to have deposited the information as well as the certificate of the Land Acquisition Collector vide the letter dated 11th July, 2002.

The answer by the petitioner to some of the columns and the certificate of the collector is material.

Each of the petitioners has given the information in an identical manner. The application forms submitted by Sh. Jagat Singh contained the following submissions :-

"8. Whether any land owned by the applicant, his wife/husband and dependent relations (including the unmarried children) in Delhi, New Delhi and Delhi Cantt. Has been acquired? If yes, its particulars

No

If yes, then give particulars

Village.....

Award No. and Date.....

Khasra No.....

9. If the recorded owner at the time of Notification u/s 4 has died, then

(i) Name of legal heirs, their age and relation with recorded owner

Name Age

Jagat Singh 75 years

Relationship

Son

"12. Verification by Land Acquisition Collector

D. Whether the possession of the acquired land has been taken over wholly. If yes, then give date if not give details

10/07/78

B. Details regarding Ancestral land

(i) Number and date of Notification u/s 4 of the Land Acquisition Act.

No.F.1(43) 163-Land H

Date : 30.10.63

(ii) Name of recorded owner at the time of notification u/s 4 of the Land Acquisition Act.

C. If the compensation of the acquisition land has not been paid to the recorded owner shown in Col. 12B (ii) above, then the names of his legal heirs, amount and share of compensation paid to each of them.

Mithan Lal S/o Samay Singh

share

Shadi Ram,

share

E. Details regarding self-acquired land

Yes/No

Whether this land has been mutated in favor of the applicant? If yes, then No. and date.

No. N/A

Date.....

Sd/-

Signature of LAC with stamp"

16. This proforma also contains the following Explanation:-

"CONDITIONS OF ELIGIBILITY

a) In case of ancestral land, person who is the recorded owner prior to the issue of notification u/s 4 of the Land Acquisition Act is eligible.

b) In case where land has been purchased, land should have been purchased prior to the issue of notification u/s 4 of the Land Acquisition Act and the mutation should also have been carried out.

c) When recorded owner of the land dies before notification u/s 4, allotment is to be made separately to all the legal heirs of deceased according to their share recognized by the LAC but if he dies after the notification, all legal heirs are entitled to only one plot."

17. Based on the information furnished by the petitioners, the respondent seem to have considered the matter and passed an order which was communicated to the petitioner vide letter dated 7th November, 2002. It would be useful to notice the material terms which reads as hereunder :-

"This has reference to your letter dated 11/7/02 and 25/7/02 on the above cited subject. In this connection it has been noticed on scrutiny of the certificated duly endorsed by the office of the Land Acquisition Collector that recorded owner of land at time of notification u/s (4) of the Land Acquisition Act was your father late Sh. Mithan Lal and as per the terms and conditions of brochure only one person from each displaced family was eligible for allotment of shop, whereas you all have got the allotment of four shops as mentioned above.

The competent authority has considered the issue and has decided that eligibility criteria be adopted to the definition of "recorded owner" only and in your case the recorded owner of land was your father late Sh. Mithan Lal, as such only one shop can be allotted to him or his legal heirs. You are accordingly requested to indicate one of the above mentioned shops that you would like to retain jointly or in favor of one."

18. No action was taken by the petitioner thereafter. However only on the 1st March, 2004 the petitioners appeared to have submitted a representation to the DSIDC with a reminder thereto on 26th April, 2004 According to the petitioners, as the respondents have failed to consider the assertions on behalf of the petitioners, the petitioners have impugned the decision taken by the DSIDC by way of the present writ petition.

19. Looking at the matter from the aspect of land acquisition itself, transfer of a land which is a subject matter of acquisition on account of issuance of a

notification u/s 4 of the Land Acquisition Act is interdicted on account of the application of the Delhi Lands (Restriction on Transfer) Act, 1972. The position which emanates is that any person acquiring rights in land subsequent to the issuance of the notification u/s 4 of the Land Acquisition Act, 1894, becomes entitled only to the compensation under the Award which may be made in respect of such land.

20. The petitioners had no right in the land whatsoever during the life time of Sh. Mithan Lal. The notification u/s 4 of the Land Acquisition Act was in place since 1963. Sh. Mithan Lal had also lodged the claim with the Land Acquisition Collector in respect of the land in question.

Upon his death, his six sons became entitled only to the compensation under the Award in the matter without acquiring any right in the land which had been acquired. The petitioners, Therefore, did not fall into definition of either the "land owners" or the "recorded owner" for the purposes of the Land Acquisition Act.

As noticed above, the petitioners were clearly not members of the family of the "displaced person".

21. In acceptance of the above legal position, the petitioners and the other sons accepted the Award in favor of their father Late Sh. Mithan Lal and accepted payment of the compensation.

22. The other aspect which deserves to be noticed relates to the status of a land owner. Under the scheme of acquisition of land in accordance with law, a land owner is the person in whose name the ownership rights of the land are recorded at the time of issuance of the Section 4 notification. The material date is the date of issuance of such notification. Any person acquiring rights subsequent to the issuance of the notification is legally considered and entitled to only such rights as were held by the recorded owner in whose name the land stood on the date of issuance of the Section 4 notification.

The petitioners were not the owners of the land at the time of issuance of the notification u/s 4 of the Land Acquisition Act.

23. The DSIDC appears to have been conscious of such a contingency where a land owner or recorded owner may have died prior to the allotment under the scheme being complete. For this reason, vide the letter notifying a person with regard to the provisional allotment, the DSIDC had required submission of a certificate of mutation, affidavit declaring legal heirs of the deceased in case of death of the person whose land was acquired as well as no objection certificates from all the legal heirs of the deceased. Such requirements were communicated to the petitioners as well vide the letter dated 10th December, 1998.

24. The admitted case of the petitioners, themselves is that such documents were duly submitted by the petitioners to the DSIDC. Only four out of the six sons of the deceased Sh. Mithan Lal had made the applications and are petitioners before this court

25. The petitioners were aware of the above position as they have contended that the required documents were deposited with the respondents. Therefore, the petitioners cannot be heard to contend that there was any change in the definition or the criterion for allotment after allotment. The scheme clearly stipulated that only one member of the "Displaced Family" was to be considered for allotment of the shop. The purpose appears to be rehabilitation of the land owner and aim of the authorities to provide a source of livelihood to the displaced family. Only a member of such displaced family was thus eligible to make the application and not four separately settled sons of a deceased land owner.

There exists a distinction between "member of a family" and an "heir/representative of a person" who is not living as part of the family of an individual. The severance of joint status is recognized by law.

26. It appears that in view of claims as have been raised in the present case, the position was explained by the DSIDC in the note appended to their format which was submitted by the petitioner on the 11th June, 2002. The format has clearly explained the definition of a land owner who would be entitled for consideration for allotment of the land. The petitioner has accepted the position stated by DSIDC and raised no objection thereto.

27. The action taken by the respondents cannot be faulted for yet another reason. The scheme for allotment of alternative land upon acquisition of his land under a Land Acquisition Act has fallen for consideration before this court in several cases. The legal position in respect thereof has been authoritatively laid down in the Full Bench judgment reported at AIR 1994 Del 29, entitled Ramanand v. UOI and Ors. which has been relied upon by learned counsel for the respondents. In this case, large chunks of land were acquired for development and disbursement of land for the purposes of planned development of Delhi. A scheme was also announced for grant of alternative land in addition to the compensation payable for residential purposes. However, after consideration of the matter the authorities had reduced the size of the plots which was available for allotment. The petitioners in this case had impugned both the action of reduction of size of the plots as well as the increase in the premium on which the plots were to be allotted. So far as the issues necessary for consideration before the present case are concerned, the same were answered as follows :-

"29. Now, let us turn to the second question. It may be stated at the outset that individuals whose land has been acquired are not given residential plots in lieu of acquisition of their land, for which they are paid full compensation, under the Land Acquisition Act. This is an additional benefit envisaged for resettlement of the displaced individuals, and premium is chargeable from such individuals at predetermined rates for allotment of alternative plots under the Nazul Rules.

34. We, Therefore, proceed to answer the second question, and hold that the rates of premium chargeable from different categories of persons, including an

individual whose land has been acquired, shall be the predetermined rates in force at the time when

the offer is made to the concerned person for allotment of a specific plot of land in a particular area or zone, under rule 6 of Nazul Rules.

40. For the foregoing reasons, we over-rule the decision in the case of Rajinder Kumar (Supra). We hold that an individual, whose land is acquired, does not have an absolute right to the allotment of alternative plot of land for residential purposes, and

that such a person is only eligible to be considered for allotment of a plot, subject to certain conditions. Further, we hold that premium shall be chargeable from such a person at the pre-determined rates prevailing on the date when the offer is made to him by the DDA for allotment of a specific plot of land in a particular area or zone, under the Nazul Rules."

28. In my view, the material date relevant for the purposes of eligibility for consideration for allotment of the plot would be the date of issuance of the notification u/s 4. Admittedly, the petitioner was not a land owner on such date. Furthermore, the petitioner admittedly was also not a member of the family of late Sh. Mithan Lal. Only four out of the six sons have submitted application. The petitioners were duly put to notice with regard to the fact that only one member of the displaced family was entitled for consideration for allotment of the shop. The petitioners were required to submit documents showing that every heir had no objection and also the name of the person who was the owner on the date of Section 4 notification. The petitioners did not participate in the acquisition proceedings. It was the claim of the late Sh. Mithan Lal which was considered by the Land Acquisition Collector and the petitioners accepted this Award and position.

The petitioners for all the aforesaid reasons did not fall under the definition of a "member of the displaced family" whose land was acquired. There is thus no change in the definition of such expression by the respondents.

29. The petitioners in any case have no vested right or entitlement to allotment. The respondents have considered the matter at length and have held that only one member of the family of Sh. Mithan Lal was entitled to allotment. The allotments made to the petitioners were provisional and were obviously subject to verification of the claims made. The respondents have passed the orders after considering the matter at length and giving full opportunity to the petitioners in support of their claim made before the respondents as well as in this court.

The principles of promissory estoppel are not attracted in this view of the matter.

Furthermore, keeping in view the spirit, intendment and purpose of the scheme, it is evidently a welfare measure to facilitate rehabilitation of the land owners who may be losing livelihood on account of the acquisition. Such scheme cannot be permitted to be converted into a method of acquisition of commercial property

by separated children of a deceased land owner. Even though the principles of promissory estoppel are not attracted, but it has been held by the Apex Court in the judgment reported *Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and Others*, that assuming that the Government has made a promise and if the Government is able to show that in view of the facts which have transpired since the making of the promise, public interest could be prejudiced if the Government were required to carry out the promise, the court would have to balance the public interest in the government carrying out a promise made to a citizen which has induced the citizen to act upon it and alter his position and the public interest likely to suffer if the promise were required to be carried out by the Government and determine which way the equity lies.

Further the doctrine of promissory estoppel represents a principle evolved by equity to avoid injustice and though named "promissory estoppel" it is neither in the realm of contract nor in the realm of estoppel. The basis of this doctrine is the interposition of equity which has always, true to its form, stepped in to mitigate the rigour of strict law. It was so held by the Apex Court in *Union of India (UOI) and Others Vs. Godfrey Philips India Ltd.*, . The Apex Court further held that the doctoring of promissory estoppel being an equitable doctrine, it must yield when the equity so requires. If it can be shown by the Government or public authority that having regard to the facts as they have transpired, it would be inequitable to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favor of the person to whom the promise or representation is made and enforce the promise or representation against the Government or public authority. The doctrine of promissory estoppel would be displaced in such as case, because on the facts, equity would not require that the Government or public authority should be held bound by the promise or representation made by it.

30. I have already held that there was no variation in the definition of "members of family of a displaced person" by the respondents and that principles of promissory estoppel were not applicable to the instant case. Even assuming that the same were attracted, it would be necessary to bear in mind the purpose for which the scheme for allocation of shops to members of families of the displaced persons has been evolved by the respondents. The purpose obviously benevolent inasmuch as, in addition to the compensation being paid under the provisions of the Land Acquisition Act, the respondents are allotting shops. The zone of consideration for such allotment was restricted to a member of the displaced family and the intention clearly being to secure a mean of livelihood.

31. Assuming that it were to be held that the respondents were bound on considerations of promissory estoppel to issuance of a writ petition, then as a result, four members of one family would get four shops in addition to the compensation paid in respect of the land of their father. Such an order if implemented in respect of the several land owners, would result in greater harm to society and would completely defeat the purpose and intendment of the

scheme of allocation.

32. It is also settled law that writ jurisdiction will not be exercised to perpetuate an unjust gain (reference M.P. Mittal Vs. State of Haryana and Others,). It has also been held by the Apex Court that no writ would be issued merely on the making out of a legal point if the larger interest of the public at large so required in Ramniklal N. Bhutta and another Vs. State of Maharashtra and others, .

33. It has been held by the Apex Court that if quashing of an order results in greater harm to society, then even an order contrary to law cannot be quashed. It was so held in State of Maharashtra and Others Vs. Prabhu, .

In the aforestated position of law, I am of the view that there is no merit in the writ petition which deserves to be dismissed.

Accordingly, the writ petition is dismissed.

There is no order as to costs.