

(2006) 08 DEL CK 0082
In the Delhi High Court
Case No : WP (C) 14696/04

Shri J.R. Sood

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 25-08-2006

Acts Referred:

Citation : (2006) 08 DEL CK 0082

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Jayant Bhushan, Malini Sood, Aman Lekha and S. Ali, for the Appellant; Y.P. Narula and Madalsa Singh, for the Respondent

Judgement

Pradeep Nandrajog, J.—I have today disposed of RP. No. 317/05 in WP(C) No. 15058-59/04. The review petition has been dismissed. My reasons recorded in the said order as also my order dated 29.8.2005 disposing of the said writ petition may be read as my reasons for allowing the present petition.

2. Only ground which needs to be considered is whether a cinema site is entitled for conversion from lease hold tenure to free hold tenure.

3. Conversion policy applies to all commercial sites in Delhi. The conversion policy does not define which lands are commercial lands.

4. The concept of commercial land would have to be determined from the provisions of the Master Plan in force in the Union Territory of Delhi. A peep into the Master Plan, Chapter-I, under the heading "Development Policies, Planning Norms and Land Use Plans" shows that a five tier system of commercial areas is contemplated by the Master Plan. Area for shopping, offices, cinema and hotels are all clubbed under the development norm i.e. five tier system of development envisaged for commercial areas. Activities at tier-II club together retail shopping, wholesale, cinema and hotel sites. The Development Code which is an integral part of the Master Plan of Delhi vide clause 4 read with Clause 8(2) shows that cinema sites are permissible to be carved out in zones C-1, C-2, M-1 and M-2 i.e.

zones in which retail shopping, wholesale markets, warehousing, general and commercial offices can be provided for.

5. I have no hesitation in concluding that a cinema site would be a commercial site as understood in the Union Territory of Delhi.

6. A perusal of the reply filed shows that the respondent has not denied the fact that a cinema site would be a commercial site for the reason, defense appears to be that while notifying rates at which conversion has to be effected, rates for hotels and cinema sites have not been notified.

7. Since conversion policy permits conversion of all commercial and mixed land use sites; to be converted from leasehold tenure to freehold tenure; non-notification of conversion rates can be no ground to deny conversion.

8. If under a policy, to give effect to the policy, conversion rates have to be notified, mandamus can be issued to the Government to notify the land rates.

9. Learned counsel for the petitioner sought to urge that under the conversion policy, rates for commercial land have been notified and since cinema sites would be commercial sites, said rates must apply.

10. Per contra, learned Counsel for the respondent has drawn my attention to a letter written by the Government that the commercial rates notified exclude the rates for hotels and cinema sites.

11. I accordingly dispose of the writ petition holding that a cinema site is eligible for conversion from leasehold to freehold tenure. I issue a mandamus to the respondents to forthwith notify the rates applicable to the petitioner's site and thereafter, process petitioner's application seeking conversion from leasehold tenure to freehold tenure and complete the process within six months from the date of decision.

12. Needless to state, charges payable by the petitioner as per rates notified by the Government would be payable but the same would relate to the year in which petitioner sought conversion.

13. No costs.