

(2001) 08 DEL CK 0124

In the Delhi High Court

Case No : Civil Writ Petition No. 2283, CM 3625 of 2000 and CM 295 of 2001

The Nav Jagriti Co-operative Group Housing Society Ltd.

APPELLANT

Vs

D.D.A. and Others

RESPONDENT

Date of Decision : 09-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 08 DEL CK 0124

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. U.L. Watwani, for the Appellant; Mr. V.K. Sharma, Mr. R.G. Srivastava and Mr. J.R. Mudgal, for the Respondent

Judgement

Manmohan Sarin, J.—Rule

With the counsel of the parties, the writ petition is taken up for disposal.

2. Petitioner has filed this writ petition seeking direction for completion of balance main road of 18 x 42 meters long, shown at mark "Y" in the plan attached (Annexure CA). The second relief sought is to have waiver of the composition fee, as demanded by DDA. Extension of time was sought till 30th June, 2000.

3. The petition after issuance of notice to show cause had come up before the Court on number of times, when interim directions were given, Pleadings have been completed. Mr. V.K. Sharma, counsel for the respondent/DDA, informs the Court today that extension for construction has been granted to the petitioner up to 30.9.2001, without levy of composition fee. This, accordingly, takes care of the reliefs sought in prayer B and C of the prayer clause of writ petition. The issue now remaining is with regard to the completion of balance main road.

4. Learned counsel for the petitioner made a very impassioned plea regarding failure of DDA to construct the road at the portion marked "Y". This is a small patch of 18 x 42 meters, which is required to be constructed.

5. Learned counsel for the respondent/DDA, Mr. Sharma, has filed a status report dated 2.5.2001, after visiting the site along with the concerned Engineers. He submits that there is genuine difficulty in construction of this patch of road, which they are earnestly trying to resolve. There are several trees. (As per Mr. Watwani, there are only 14 trees). Mr. Sharma states that DDA has sought permission from the concerned Forest Officer and concerned authorities for felling these trees. There is yet another problem, which is coming in the way of DDA in constructing the road. It is the existence of temple structures on the road, for removal of which permission has been sought from the Lt. Governor.

Considering the above Explanation tendered on behalf of DDA, it is directed that DDA shall follow up with utmost expedition its request for permission for felling of the trees as also obtain the decision of the Lt. Governor on its proposal for removal of temple structures on the proposed road.

6. Mr. Watwani makes a plea that non-construction of road is an obstacle coming in the way of the Society in completing the construction on time. I am unable to accept this position. Looking at the plan filed along with the Status report, it is seen that on one end of the non-constructed portion of proposed road there is a 18 meters wide road, which provides the entrance to the Society's Complex and a 9 meter road on the other end, abutting the second entrance gate of course, construction of the remaining patch of road could ease the movement and would be an added advantage. However, its non-construction does not, in my view, prima facie, cause any impediment in the completion of construction. In these circumstances, nothing further survives in the writ petition and the same stands disposed of.

7. Petitioner is at liberty to move the Court for necessary directions in case DDA does not obtain the necessary permissions for felling of the trees or a decision of the Lt. Governor on the proposal for removal of temple structures by 31.12.2001.