

\* HIGH COURT OF DELHI AT NEW DELHI  
+ LPA 1048/2007 & Connected matters  
% Date of Decision: 22<sup>nd</sup> February, 2008

1. **LPA 1048/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

YASHPAL MADAN & OTHERS .....RESPONDENTS

2. **LPA 1014/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

GOPI RAM DALL OIL MILL AND  
FLOUR MILLS & OTHERS .....RESPONDENTS

3. **LPA 1015/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

GURCHARAN SINGH & OTHERS .....RESPONDENTS

4. **LPA 1016/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

JOGINDER KR. LAMBA & OTHERS .....RESPONDENTS

5. **LPA 1017/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

KAVITA AHUJA & OTHERS .....RESPONDENTS

6. **LPA 1018/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

PARAMJIT SINGH & OTHERS .....RESPONDENTS

7. **LPA 1019/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

MANGAT RAM SHARMA & OTHERS .....RESPONDENTS

8. **LPA 1020/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS  
Versus

ASHU VERMA & OTHERS .....RESPONDENTS

9. **LPA 1021/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

GULSHAN ARORA & OTHERS .....RESPONDENTS

10. **LPA 1022/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

NARELA RELOCATION INDUSTRIES  
& OTHERS .....RESPONDENTS

11. **LPA 1023/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

MAA KALI DALL MILLS & OTHER .....RESPONDENTS

12. **LPA 1024/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

CITIZEN ELECTRICAL P. LTD & OTHERS.....RESPONDENTS

13. **LPA 1025/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

ASHOKA BOARD PRODUCTS & OTHERS.....RESPONDENTS

14. **LPA 1026/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

RAJ SHREE INDUSTRIES & OTHERS .....RESPONDENTS

15. **LPA 1027/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

JAI BHAGWAN & OTHERS .....RESPONDENTS

16. **LPA 1028/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

RAMESH ARORA & OTHERS .....RESPONDENTS

17. **LPA 1029/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

RAJAN SOOD & OTHERS .....RESPONDENTS

18. **LPA 1030/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

ASHA KALRA & OTHERS .....RESPONDENTS

19. **LPA 1031/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

HARISH CHANDER KHULLAR & OTHER  
.....RESPONDENTS

20. **LPA 1032/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

RAVINDER SINGH DAFOO & OTHERS .....RESPONDENTS

21. **LPA 1033/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

G.K. ENTERPRISES & OTHERS .....RESPONDENTS

22. **LPA 1034/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

ASHA GOYAL & OTHERS .....RESPONDENTS

23. **LPA 1035/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

DELHI PRINTER ASSOCIATION & OTHERS  
.....RESPONDENTS

24. **LPA 1036/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

ANITA JINDAL & OTHERS .....RESPONDENTS

25. **LPA 1037/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

SAROJ & OTHERS .....RESPONDENTS

26. **LPA 1038/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

BALDEV RAJ & OTHERS .....RESPONDENTS

27. **LPA 1039/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

FELTRON MANUFACTURING & OTHERS .....  
RESPONDENTS

28. **LPA 1040/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

SURENDER SHARMA & OTHERS .....RESPONDENTS

29. **LPA 1041/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

PAVVINDER KAUR & OTHERS .....RESPONDENTS

30. **LPA 1042/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

DELHI PRINTERS ASSN. & OTHERS .....RESPONDENTS

31. **LPA 1043/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

ASHOK KUMAR KAPOOR & OTHERS .....RESPONDENTS

32. **LPA 1046/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

VINIT AHUJA & OTHERS .....RESPONDENTS

33. **LPA 1047/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

HARI SHANKAR BANSAL & OTHERS .....RESPONDENTS

34. **LPA 1094/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

PINKI ROLLING SHUTTER & OTHERS .....RESPONDENTS

35. **LPA 1095/2007**

DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION .....APPELLANTS

Versus

GYAN DEVI & OTHERS .....RESPONDENTS

Counsel for the parties: Ms.Anusuya Salwan with  
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1017/07, 1023/07, 1025/07, 1095/07  
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1037/07, 1038/07, 1041/07,  
1043/07, 1046/07, 1048/07,  
1095/07  
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**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE SANJIV KHANNA**

1. Whether reporters of local papers be allowed to see the judgment ? yes
2. To be referred to the Reporter or not ?yes
3. Whether the judgment should be reported in the Digest ?y

**DR. MUKUNDAKAM SHARMA, CJ**

1. As the issue involved in these appeals are identical, we propose to dispose of the same by this common judgment.
2. Pursuant to the directions of the Supreme Court in a public interest litigation, in the year 1996, Department of Industries, Government of NCT of Delhi devised a Scheme for relocation of industries from non-conforming areas to various other authorised

industrial complexes in Delhi, either developed or to be developed by the authorities for the purpose of relocating industrial units

3. Subsequently, an advertisement was issued inviting applications for allotment of industrial plots under relocation scheme. A brochure in respect of the relocation scheme of 1996 was issued by the Office of Commissioner of Industries, Government of NCT of Delhi and implementation of the said scheme was entrusted to the Delhi State Industrial Development Corporation ('DSIDC' for short). At the time of application, the applicant was required to deposit earnest money @ Rs.300/- per sq.mtr. The said rate was an estimated figure and was subject to change depending upon the cost of acquisition, construction, development, location of industrial area, other inputs etc. The relevant clause of the brochure issued is reproduced below for reference:

**“5. Estimated cost of industrial flat/plot**

The estimated cost of one flatted factory shall be around Rs.7 lacs and that the industrial plot shall be approx. Rs.3000/- per square meter. These are estimate figures and are subject to change depending upon the cost of acquisition, construction/development, location of flatted factory complexes/industrial area, other inputs etc.”

4. Pursuant to the aforesaid advertisement, the respondents

herein applied for allotment of industrial plots at Narela Industrial Complex, under the said relocation scheme. Subsequently, by letter dated 7<sup>th</sup> May, 2004 bearing No.DSIDC/RL/CM/P.C./03/2296 addressed to one of the allottees namely, Garg Iron and Steel Company, respondent herein, it was informed that he has been allotted a plot measuring 250 sq.mtrs @Rs.7,776/- per sq.mtr. The date 7<sup>th</sup> May, 2006 was over written/superimposed on the earlier date of 2<sup>nd</sup> January, 2004 and also the price of Rs.7,776/- was overwritten/superimposed on the price of Rs.5,400/- per sq.mtr.

5. Aggrieved by the allotment of an industrial plot at Narela Industrial Complex at the rate of Rs.7,776/- per sq.mtr instead of Rs.5,400/-, the respondents herein challenged the enhancement of price to Rs.7,776/- by filing a writ petition praying for a direction to the DSIDC to allot the plots to the respondents @ Rs.5,400/- per sq.mtr as fixed in 2001. On perusal of the facts and after hearing the learned counsel for the parties, the learned Single Judge formulated the key question for consideration as to whether DSIDC can charge 20% unearned increase annually over and above the pre-determined rates of Rs.5,400/- per sq.mtr as fixed on 1<sup>st</sup> January, 2001 and thereafter allowed the writ petitions by order

dated 15<sup>th</sup> May, 2007 holding that it was nowhere stated in the affidavit filed on behalf of the DSIDC that any developmental activity has taken place after 2001 and that any additional costs as indicated in paragraph 5 had been incurred by the DSIDC after 2001 and therefore, it would be unfair and beyond the scope of relocation scheme to enhance the value of the land when no actual costs or expenses have been incurred by the DSIDC. The demand for Rs.7,776/- per sq.mtr was set aside by the learned Single Judge and the DSIDC was directed that they shall while maintaining the price of 2001 i.e. Rs.5,400/- per sq.mtr, enhance it to a higher figure, relying upon the rate of inflation in the intervening period, which could be calculated on the basis of wholesale price index, so that the respondents herein have to pay Rs.5,400/- per sq. in real terms adjusted to 2007. We are told that same works out to be Rs.6,480/- per sq.mtr. Aggrieved by the aforesaid order of the learned Single Judge, DSIDC has filed the present appeals.

6. We have heard the learned counsel for the parties and perused the records placed before us. During the hearing of the present appeals, it was submitted by the counsel for the

respondents that they are ready and willing to deposit the balance amount @ Rs,.6,480/- per sq.mtr without prejudice to their rights and contentions in the present appeals. As the respondents had not deposited the amount even in terms of the order of learned Single Judge and have only deposited the cost of land @ Rs.4,200/- per sq.mtr, by order dated 26<sup>th</sup> November, 2007, it was directed that the said amount be deposited after adjusting the amounts already deposited with the DSIDC. We are informed that most of the respondents, if not all, have deposited Rs.6,480/- per sq. mtr towards cost of land.

7. Before the learned Single Judge and also before us it was contended by DSIDC that the Court cannot interfere with the costing as the scope of interference of Courts in exercise of the powers under Article 226 of the Constitution in the matter of costing is very limited as it relates to contractual relationship. Though there is no dispute with regard to the said proposition that the jurisdiction of the Court under Article 226 of the Constitution in respect of the matter relating to costing is very limited, but it is also well settled that a duty has been cast on the courts to see that the decision with respect to pricing/costing is not arbitrary or

irrational and also that the relevant factors are only taken into consideration, excluding the irrelevant factors. It is particularly so in the present case where the allotment is to be made under a relocation scheme on 'no profit no loss' basis as directed by the Supreme Court.

8. Referring to Clause 5 of the brochure it was contended by DSIDC that prices were only estimated figures subject to change depending upon various factors including location. It was further contended that the date of allotment would be relevant for fixing the price and in support of the said contention DSIDC has relied on the letter dated 26<sup>th</sup> April, 2004 bearing No.DSIDC/EE(CD)-III/RL/1999/108/74-81 issued by the Commissioner of Industries, Government of NCT of Delhi, addressed to the Managing Director, DSIDC wherein the Commissioner of Industries has informed the DSIDC about the revised rates for disposal of industrial plots. The said letter is reproduced below for ready reference:

“Sub: Revision of rates for disposal of industrial plots and fixation of market rate for the purpose of charging unearned increase under the Relocation Scheme:

Sir,

In continuation of the office order No.DSIDC/EE(CD)-

III/RL/99/108/13-21 dated 14.9.2001 and No.DSIDC/EE(CD)-III/RL/99/108/13-21 dated 21.9.2001 and on the subject cited above, the Lessor/Lt.Governor of Delhi is pleased to notify the rates of industrial land allotted/being allotted by DSIDC at Narela, Patparganj, Jhilmil, Badli and Bawana Industrial Estate under the Relocation Scheme as per details given below:

| S. No | Name of the Indl. Area | Rate of Industrial land (in Rs. per sq. mtr) |                 |                 |
|-------|------------------------|----------------------------------------------|-----------------|-----------------|
|       |                        | 1.1.01-31.12.01                              | 1.1.02-31.12.02 | 1.1.03-31.12.03 |
| 1.    | Narela                 | Rs.5,400/-                                   | Rs.6,480/-      | Rs.7,776/-      |
| 2.    | Patparganj             | Rs.7,560/-                                   | Rs.9,072/-      | Rs.10,886/-     |
| 3.    | Jhilmil                | Rs.5,400/-                                   | Rs.6,480/-      | Rs.7,776/-      |
| 4.    | Badli                  | Rs.5,400/-                                   | Rs.6,480/-      | Rs.7,776/-      |
| 5.    | Bawana                 | Rs.4,200/-                                   | Rs.4,200/-      | Rs.4,200        |

Further, Lessor/Lt.Governor, Delhi is pleased to fix the following rates for charging unearned increase in the market value of the aforesaid industrial plots for regularising deletion of partners/directors not covered under the definition of family.”

9. The learned Single Judge has also drawn inference from the above letter to frame the key question that whether DSIDC can charge 20% unearned increase annually over and above the pre-determined rates of Rs.5,400/- per sq.mtr as on 1.1.2001. On the said question the learned Single Judge held that as per paragraph-5 of the brochure the estimated figures were subject to increase only if there was an increase in the cost of acquisition, cost of construction/development, location of flatted factory complex/ industrial areas and other inputs. But the said increase in the present case is not on any of the said factors as no detail has been

provided to show and indicate as to that under what head what expenditure has been made. It was observed that the increase has been effected by merely citing a policy of 20% increase annually and there are no other factors which have been taken into account for arriving at the said price. Thus, merely citing the policy will not be sufficient as it was specifically mentioned that the increase, if any, will be only on account of the aforesaid factors enumerated in paragraph-5 of the brochure.

10. DSIDC also contended that since the allotments were made in 2004, therefore no vested right was accrued to the respondents to claim allotments at the price prevailing prior to 2004 and the allotment can be made only at the price determined by the appropriate authority for the concerned year.

11. However, the respondents, reiterating their stand taken before the learned Single judge, contended before us also that the learned Single Judge was right in holding that the increase was on account of unearned increase and not on account of actual cost of development which was the only factor on which an increase, if any, can be made. It was also contended that the allotments were made under the relocation scheme as per the directions of the

Supreme Court and even otherwise under a scheme of this nature, the allotments are made on 'no profit no loss' basis and an increase of this nature i.e. unearned increase, will be contrary to the basic objective of the said policy and the directions of the Supreme Court. It was also contended that the respondents were ready to abide by the terms fixed at the time when the brochure was issued and willing to pay the enhanced price, but the said enhanced price should be only on account of increase in cost of development as enumerated in the brochure and should not be based on any other factor like unearned increase and should also not be in order to capitalise the situation on account of the factors which were never enumerated in the brochure.

12. The respondents in order to further substantiate their arguments have relied on the letter dated 7<sup>th</sup> May, 2004 which was originally prepared on 2<sup>nd</sup> January, 2004 and contended that no construction has taken place in the period between January to May, 2004 and the increase in price from Rs.5,400/- to Rs.7,776/- per sq.mtr., as over written/superimposed, is not on account of the factors enumerated in the brochure issued at the time of application for such allotment.

13. In paragraph-17 of the impugned judgment the learned Single Judge has held that it would be unfair and beyond the scope of relocation scheme to enhance the value of the land, as DSIDC have nowhere stated in their affidavits that any additional cost on account of the factors indicated in paragraph- 5 of the aforesaid brochure have been incurred by the DSIDC after 2001. It is an admitted position that in the year 2001 the price was at Rs.5,400/- sq.mtr in Narela which is also evident from the letter dated 26<sup>th</sup> April, 2004. Subject of the said letter indicates that it was issued for “revision of rates for disposal of industrial plots and fixation of market rate for the purpose of charging unearned increase under the relocation scheme”. In the said letter, against land prices at Narela, the price was mentioned at Rs.5,400/- per sq.mtr for the calendar year 2001, Rs.6480/- per sq.mtr for the calendar year 2002 and Rs.7,776/- per. sq.mtr for the calendar year 2003. There is also no dispute to the fact that the latter two amounts are exactly 20% higher than the previous amounts. However, the said pricing policy was not only adopted for the Narela Industrial area but was also adopted for other industrial areas like Patparganj, Jhilmil and Badli where the prices were increased

accordingly and it was only the Bawana Industrial Area where the prices have remained constant at Rs.4,200/- per sq.mtr from calendar years 2001 to 2003.

14. On perusal of the writ record we also find that the respondents have themselves alleged in their list of dates that despite the order of the Supreme Court in October, 2003 directing the DSIDC to complete the development of industrial plots and allot the same, the DSIDC did not act accordingly and the prices continued to go up. Reference in this regard can also be made to paragraph 20 of the writ petition wherein the respondents have not contended that development of land was complete in 2001 but have contended that due to negligence of DSIDC the land could not be developed and the respondents are sufferers because of the negligent bureaucratic approach. Thus from the aforesaid it can be said that even the respondents were aware of the fact that development of land was not complete in the year 2001. Though it cannot be denied that DSIDC has taken a long period of over eight years from the date of application to hand over the industrial plots in Narela Industrial Area which as per DSIDC is a developed industrial area in comparison to other industrial areas, but as the

loss due to delay in handing over the plots was not in issue before the learned Single Judge and also before us, we do not think it to be appropriate to comment on the said aspect. There can be a number of reasons and causes why delay in development of land took place.

15. Accordingly, now the question which remains to be considered is whether the said increase, termed as unearned increase, was actually on account of cost of development. A table annexed with the letter dated 26<sup>th</sup> April, 2004 shows that the fixed price of the land in Narela Industrial Area has gone up from Rs.1,123/- per sq.mtr in the financial year 1997-98 to Rs.2,796/- in the financial year 2003-04. It has been reiterated by this Court and the Supreme Court in various decisions that the date of allotment and not the date of application will be the relevant date for the purpose determining the price. Reference in this regard can be made to the decision of the Supreme Court in the case of Delhi Development Authority v. Pushpendra Kumar Jain reported in 1994 supp. (3) SCC 494 wherein the Supreme Court has held that the right arises only on the communication of the letter of allotment and accordingly the price or rates prevailing on the date

of such communication will be applicable unless otherwise provided in the scheme. (Also see: Chief Administrator PUDA & Another v. Mrs.Shabnam Virk reported in (2006) 4 SCC 74).

16. Even if the allotment has to be made on 'no profit no loss' basis, it is necessary to determine the value of land prevailing at the time when the allotment has to be made. The value of land in the NCT of Delhi has seen a tremendous increase over the last decade. In order to determine the year after year increase in the value of the land and cost of construction, a method can be adopted whereby a specific percentage addition is made to the existing price. The same was the method which was adopted by the DSIDC and the appropriate percentage addition was fixed at 20% per annum.

17. The DSIDC has also submitted that the reserve price fixed by the DDA for the plots at Narela Industrial Complex in 2004 was Rs.24,000/- per sq.mtr and the rate at which the allotment being made is still less than 1/3 of the reserve price prevailing on the date of allotment. The said contention was answered by the learned Single Judge by stating that the allotment in the present case is under a relocation scheme and the aforesaid comparison

cannot be a parameter to determine the price in case of allotment of plots under a relocation scheme. In the relocation scheme the allotment is made on 'no-profit no-loss basis' whereas the aforesaid reserve price was fixed by DDA in a case where the allotment was to be made by auction. We also agree that it will not be just and proper to compare the two prices as the allotment in the present case is under a specific scheme i.e. relocation scheme, but the same can be an indication to the fact that there would have been an increase in the the cost of land and also in the cost of development. Land is not being allotted to the respondents at the market rate, but at the fixed pre-determined rate fixed by the Government of NCT of Delhi. The fixed pre-determined rate is almost 1/3 less than the reserve price fixed for auctions. Reserve price is 20% less than the average auction rate in the last year.

18. A reference was also made by the respondents to the price at which allotment was made at Bawana industrial Area i.e. @ Rs.4,200/- per sq.mtr to contend that as the price at Bawana was Rs.4,200/-, the cost of development even at Narela cannot be by any stretch of imagination be more than Rs.5,400/-. Though it is an admitted position that there was no increase in the allotment

price in respect of the industrial plots at Bawana Industrial Area but the said factor cannot be applicable in respect of other industrial areas as except Bawana there was an increase in prices in all other industrial areas. Also during the course of hearing a proposal was also made by the appellant DSIDC that they are ready and willing to allot industrial plots in Bawana industrial Area @ Rs.4200 sq.mtr, if the respondents are ready and willing to surrender their allotment at Narela Industrial Complex, but none of the respondents came forward to exercise the said option. It is also evident from the records that the reserve price prevalent in 2004 at Bawana Industrial Area was Rs.11,750/- per sq.mtr which is even less than half of the reserve price prevalent at Narela Industrial Area. Thus it will not be appropriate to determine the price by comparing the two areas and also the fact that there was no increase in the price in the Bawana Industrial Area cannot be made the guiding factor to decide the quantum of increase in the price in other industrial areas.

19. We have also gone through the letter of allotment dated 7<sup>th</sup> May, 2004. It is apparent that the date 7<sup>th</sup> May, 2004 was overwritten/superimposed on the earlier date of 2<sup>nd</sup> January, 2004

and accordingly the price of Rs.7,776/- was also overwritten/superimposed on the price of Rs.5,400/- per sq.mtr. Even if we accept that no development and expenditure was incurred in the period between January and May, 2004, then also the demand of the respondents to get the allotment at a price of Rs.5,400/- per sq.mtr instead of Rs.7,776/- cannot be accepted in the light of the fact that not only in the year 2004 but even in the calendar year 2003 prevailing price was Rs.7,776/- per sq.mtr and the allotment in the year 2004 was made at the same price. Thus, even on 2<sup>nd</sup> January, 2004 the prevailing price was Rs.7,776/- per sq.mtr and not Rs.5,400/- and also as the letter was posted to the respondents with the correct price of Rs.7,776/- , no vested right has accrued upon the respondents to claim allotment at the rate of Rs.5,400/- on the ground that the DSIDC, instead of preparing a new letter rectifying their mistake, chose to superimpose the prevalent price upon the wrongly stated price.

20. The DSIDC was only the implementing authority and the price determining power was vested with the Department of Industries, Government of NCT of Delhi through Lt. Governor and from letter dated 26<sup>th</sup> April, 2004 it is evident that the said price

was fixed by the said authority with approval of the Lt.Governor and DSIDC was bound to make allotment according to the price determined by the said authority from time to time.

21. In the light of the aforesaid discussion and findings, we are of the opinion that the learned Single Judge has erred in coming to the conclusion that the cost of land as demanded was not appropriate as no actual expenditure has been incurred by DSIDC towards the cost of development. Accordingly, we set aside the impugned judgment and order and allow the appeals filed by the DSIDC. The respondents are directed to deposit the balance amount @ Rs.7,776/- per sq.mtr, after adjusting the amount already deposited, within a period of three months from today and thereafter DSIDC to make allotment within four weeks from the date of deposit of the balance amount and on completion of all other necessary formalities.

CHIEF JUSTICE

(SANJIV KHANNA)  
JUDGE

February 22, 2008  
“v”