

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+LPA No.1252/2007

%Date of Decision:29.04.2008

Union of India & Anr. ...Appellant
Through: Mr. Monica Garg, Standing Counsel
Versus

Videsh Sanchar Nigam Ltd.
Employees Cooperative Housing Society ...Respondent
Through: Mr. Neeraj Kaul, Sr. Adv. with
Mr. Amit Mahajan, Mr. Manik
Dogra, Mr. Shashi Shekhar and
Mr. Sidharth Das, Advocates for
the Respondent No.1.
Mr. U. Hajrika with Ms. D. Phookan,
Advocates for the Respondent
No.2

CORAM :-

THE HON'BLE MR. JUSTICE A.K. SIKRI
THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J.R. MIDHA, J.

This Letters Patent Appeal arises out of the order dated 17th May, 2007 in W.P.(C) No.12002/2006 whereby the learned Single Judge allowed the writ petition of Videsh Sanchar Nigam Employees Cooperative Housing Society (Respondent No.1) and directed the Respondent No.2 to complete formalities of transfer of the land to Respondent No.1 within two months. The Appellant has also challenged the orders dated 18th July, 2007 and 10th August, 2007.

2. The relevant facts of this case in brief are as under:-
- 2.1 Respondent No.1 is a Cooperative Housing Society formed by the employees of Respondent No.1. Respondent No.1/Society was registered under the Tamil Nadu Cooperative Housing Society Act, 1961 on 10th March, 1986. Respondent No.1 is an erstwhile Government Company in which Government continues to have 26% shareholding after disinvestment of its shareholding in February, 2002.
- 2.2 Videsh Sanchar Nigam Ltd. (VSNL)/Respondent No.2 prior to its disinvestment in 2002 was holding 773.13 acres of surplus land in four cities, namely, New Delhi, Pune, Chennai and Kolkata. The present appeal relates to 32.5 acres of surplus land at Padianallur, near Chennai.
- 2.3 Vide letter dated 19th May, 1986, Respondent No.1 requested Respondent No.2 for allotment of surplus land at Padianallur, near Chennai for building residential complex for its employees. Respondent No.2 by communication dated 22nd April, 1993 sought the approval of the Appellant for transfer of surplus vacant land of 32.5 acres to Respondent No.1. The Appellant, by letters dated 1st June, 1993 and 9th July, 1993 sought details of surplus un-utilized land held by Respondent No.2. The relevant details were provided by Respondent No.2 to the Appellant by letter dated 18th July, 1993.

- 2.4 Respondent No.2 in its Board Meeting dated 26th May, 1993 considered the request for allotment of surplus land to Respondent No.1 and sent its decision for approval to the Appellant by letter dated 25th February, 1994, whereupon the Appellant sought the book value of the subject land by their letter dated 15th March, 1994. Respondent No.2 conveyed the book value to the Appellant by letter dated 20th May, 1994.
- 2.5 The Appellant vide letter dated 19th January, 1995 granted the approval to Respondent No.2 to allot the land to the Appellant at the market value. This was followed up by the communications relating to issues including the determination of the market value of the subject land. However, the subject land was not transferred to the Appellant on account of litigation by a third party which continued from 1998 to 2005. In the meantime, the disinvestment of Respondent No.2 took place in February, 2002.
- 2.6 Respondent No.1 filed the writ petition bearing No.W.P.(C) 12002/2006 seeking transfer of the subject land in their favour. The writ petition was defended by the Appellant on various grounds inter alia that the control of land does not rest with the Appellant and the said land is to be demerged from VSNL to a Resulting Company. It was further stated in the counter affidavit dated 20th November, 2006 that the

Appellant has no role to play regarding allotment of land to Respondent No.1. VSNL/Respondent No.2 also filed an affidavit stating that they have no objection to the transfer of the land in question to Respondent No.1.

3. The Appellant has assailed the order of the learned Single Judge on the ground that the land in question was kept out of the bidding process and it was to vest in a Resulting Company, namely, Hemisphere Properties India Ltd. The Appellant has further contended that VSNL is not the owner and only custodian of the surplus land. The Appellant has also challenged the valuation of 29th June, 1998.

4. We have heard the learned counsel for the parties at length and have given thoughtful consideration to their respective contentions. We hold as under:-

4.1 The letter dated 19th January, 1995 clearly constitutes approval for allotment of the subject land to Respondent No.1. The letter dated 19th January, 1995 has to be read in continuation with the previous correspondence. It is on record that vide letter dated 22nd April, 1993, Respondent No.2 sought the approval of the Appellant for transfer of the surplus vacant land of 32.5 acres to the Appellant in pursuance to which the Appellant vide letters dated 1st June, 1993 and 9th July, 1993 sought the details of the surplus land. Respondent No.2 communicated the details of the surplus land to the Appellant by letter dated 18th July, 1993.

Thereafter, the Board of Respondent No.2 in its Meeting dated 26th May, 1993 considered the request for allotment and observed that the Board has no objection to hand over of the land to the Appellant and sought the approval of the Appellant vide letter dated 25th February, 1994. The letter dated 19th January, 1995 clearly approved the decision of Respondent No.2 and thereby completed the allotment process initiated by the previous correspondence. As a matter of fact, nothing more was required to be done, except to determine the market value and to hand over the possession after receiving the payment for the same. It is not in dispute there was a litigation initiated by a third party which continued from 1998 to 2005.

- 4.2. Since the allotment process was completed by 19th January, 1995, the disinvestment of Respondent No.2 in February, 2002 cannot take away the Appellant's right. It has been strongly argued by the Appellant that there has been no allotment and the letter dated 19th June, 1995 does not amount to allotment as the words "could be allotted" have been used in the said letter. This argument is misconceived as the letter dated 19th January, 1995 is the approval of the decision of Respondent No.2 and the words "could be allotted" mean that Respondent No.2 can go ahead with the allotment and that the Appellant approved of the same. In any view of the matter, the letter dated 19th January, 1995

constitutes a legally enforceable right in favour of Respondent No.1.

4.3 It is also on record that the Respondent No.1/Society was incorporated on 10th March, 1986 and it comprises of the employees of Respondent No.2. The allotment of the surplus land to Respondent No.1 was considered by the Appellant as well as Respondent No.2 as a welfare measure to provide shelter to its employees. It is no one's case that the employees of Respondent No.2 do not require the shelter any more. It is also not in dispute that the subject land is surplus and is not required for any other purpose.

4.4 The Appellant has made clear admissions in the counter affidavit filed before the learned Single Judge in which the Appellant has clearly admitted Respondent No.2 to be the owner of the subject land. It is further stated that the Appellant has no control over the subject land and has no role to play regarding allotment of land to Respondent No.1. However, subsequently the Appellant sought to change the stand by saying that Respondent No.2 was the custodian of the subject land, which was not accepted. However, even assuming Respondent No.2 to be the custodian of the subject land, Respondent No.2 is the custodian of the subject land for transfer of the same to Respondent No.1 and not for any other purpose. The aforesaid admissions of the

Appellant are sufficient for grant of writ of Mandamus to Respondent No.1. Having approved the allotment of the subject land to Respondent No.1 vide letter dated 19th January, 1995, the Appellant cannot now turn around and object to the transfer of the same to Respondent No.1.

4.5 Since the allotment process got completed as back as on 19th January, 1995, the disinvestment and the Share Purchase Agreement in February, 2002 would not have any effect on the allotment. Even otherwise, Respondent No.1 was not a party to the Share Purchase Agreement and Share Holders Agreement between the Appellant and Respondent No.2 and, therefore, the adverse terms in the said agreements cannot bind the Appellant.

4.6 The action of the Appellant to object to the transfer of the subject land by Respondent No.2 to Respondent No.1 is clearly unreasonable and, therefore, also violative of Article 14 of the Constitution. Admittedly, the members of the Appellant were/are the employees of Respondent No.2 and the Appellant approved the allotment of the subject land by Respondent No.2 for the welfare of its employees. Merely because the disinvestment has taken place, the employees of Respondent No.2 cannot be discriminated. All actions of the State have to be fair, just and reasonable.

4.7. The learned Single Judge has fairly directed the valuation of land rates of 29th June, 2008 since the land was to be given in 1998 and the reasons for delay were beyond the control of the parties.

For the aforesaid reasons, we do not find any infirmity in the order of the learned Single Judge. We, therefore, uphold the order of the learned Single Judge. The appeal is dismissed without any costs.

(A.K. SIKRI)
JUDGE

April 29, 2008
s.pal

(J.R. MIDHA)
JUDGE