

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

+ W.P.(C) 837/2008

M/S.BAHUJAN KALYAN SAMITI (REGD.) Petitioner

Through Mr. P. Chakraborty, Advocate.

versus

UOI & ORS.

..... Respondents

Through Mr. Neeraj, Advocate for
GNCTD.

Mr. O.P. Saxena, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 19.02.2008

1. The petitioners had occupied acquired land for which compensation has already been paid to the land owners. The respondent-DDA has demolished structures and removed encroachments to construct a road having adequate

width as per the lay out plan. Learned counsel for the petitioner does not dispute that demolition was required in public interest as the road is to be utilized by the general public. The petitioner, however, claims right to allotment of alternative land on the basis of demolition. He relies upon the scheme for regularization of unauthorized colonies. It is also submitted that the demolition was carried out in violation of the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

2. I have considered the submissions made by the learned counsel for the petitioner but do not find any merit in the same. The petitioners were unauthorized occupants who had encroached upon Government land. The entire colony has not been demolished in view of the scheme for regularization which is pending consideration. Only those houses on the portion earmarked for the public road in the lay out plan have been demolished. As rightly pointed out by learned counsel for the petitioner himself, general public interest requires that the road should be free from all encroachments and of an adequate width as stipulated in the lay out plan to ensure smooth flow of traffic.

3. The petitioner cannot claim any right to alternative allotment contrary to the policy framed by the respondent-DDA and MCD. The said policy basically relates to relocation of J.J. Clusters. It is not the case of the petitioner that

they are covered by the said policy. Admittedly, in the present case, the pucca construction made by the petitioners on the Government land have been demolished, to make way for the road. I may here make reference to the judgment of this Court in *Wazirpur Bartan Nirmata Sangh versus Union of India* reported in **(103) 2003 DLT 654**. Appeal against the said judgment filed by the respondent-UOI is pending before the Supreme Court. Liberty has been granted by the Supreme Court to the respondents-local authorities to follow their policy. In the present case, the respondents themselves are of the opinion that the petitioners' case is not covered by any policy. On the contrary, the petitioners want this Court to issue mandamus that the respondents should allot alternative land to them. In view of the above, I am not inclined to issue any such direction or Mandamus.

4. The petitioners have relied upon the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971. The petitioners were admittedly unauthorized encroachers on the Government land. They have not been allotted and did not occupy the land at the initial stage pursuant to any allotment letter issued by the respondents. It cannot be said that the petitioners were or are entitled to any protection or can be regarded as being in settled possession. This contention of the petitioner is therefore rejected.

5. In view of the above, I do not find any merit in the present Writ Petition and the same is accordingly dismissed.

SANJIV KHANNA, J.

FEBRUARY 19, 2008

P