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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1114/2008

ALFA OFFSET PRINTING PRESS Petitioner
Through Mr. Bahar U Barqi, Advocate.

versus

DELHI STATE INDUSTRIAL DEVELOPMENT
CORPORATION LTD. & ANR. Respondent
Through Ms. Renuka Arora, Advocate with Mr.
Gaur, Legal (Manager).

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **12.10.2009**

In 1996, the petitioner, Alfa Offset Printing Press deposited Rs. 1,20,000/- for allotment of an industrial plot at Bawana with the respondent No.1 Delhi State Industrial Development Corporation Ltd. (DSIDC for short).

2. The petitioner was allotted plot No.9, Pocket-D, Sector-4 at Bawana Industrial Complex, measuring 250 sq.mtrs, by the respondent DSIDC.

3. By letter dated 23rd October, 2000, DSIDC called upon the petitioner to pay 50% of the revised estimated cost of the plot @ Rs. 4,200/- per sq. mtr., amounting to Rs. 5,25,000/-. The last date of payment was 31st March, 2001.

4. It is an admitted case of the parties that till 31st March, 2001, the

petitioner had paid Rs. 4,68,300/- as per the following details, earnest money of Rs. 1,20,000/- on 1st April, 1996, Rs. 94,500/- on 17th July, 1998 and Rs. 2,53,800/- on 23rd January, 2001.

5. In addition the petitioner was entitled to interest @ 7% per annum at least on the earnest money of Rs.1,20,000/-, which was deposited on 1st April, 1996.

6. DSIDC issued the circular dated 18th July, 2002 for extension of due date for payment of the revised estimated cost. The relevant portion of the said circular reads as under:-

“In continuation to our earlier letter and press advertisement issued from time to time requesting you to deposit the balance 50% cost of the plot No.9, Pocket D, measuring 250sq mts. Allotted to you at Bawana against your application No.1212, it is to inform you that the last date for payment of the balance 50% cost of plot has been extended up to 14.8.2002 with interest in case of all allottees of Bawana who have deposited 50% cost of the plot by 31.3.2001 or those who had not paid 50% cost of the in full and their payment was short by 10% due to difference of interest on EMC etc. and made good the short fall till 1.4.2002 alongwith 18% interest w.e.f. 1.4.2001” (emphasis supplied).

7. The aforesaid circular stipulates that the applicants, who had not made payment of 50% cost in full and their payment was short by 10% due

to difference of interest on earnest money etc. they can make good the short fall till 1st April, 2002 along with 18% interest with effect from 1st April, 2001. Counsel for the respondent DSIDC admits that the circular dated 18th July, 2002, was issued granting concession and extension of time to applicants, who had not paid 50% cost of the plot in full and their payment was short by 10%.

7. It is admitted that the petitioner is entitled to interest @ 7% p.a. on earnest money of Rs. 1,20,000/-. Interest accrued on the earnest money cannot be ignored for computing the short fall as is apparent from the language of the circular. If interest @ 7% p.a. on Rs.1,20,000/- is taken into consideration, the short fall in the present case is Rs.46,200/-. Thus, the shortfall is less than 10%.

8. It is admitted that the petitioner had deposited Rs. 70,000/- on 1st April, 2002. If this amount is taken into consideration, the petitioner had deposited Rs.5,38,000/- by 1st April, 2002 and in addition to interest which had accrued on Rs.1,20,000/-. As stated above 50% of the price of the plot is Rs. 5,25,000/-. Thus, the petitioner has satisfied and has complied with the conditions and requirement of the circular.

8. Counsel for the respondent DSIDC has submitted that the deposit of Rs. 70,000/- made on 1st April, 2002 was without any requisition or letter

from DSIDC. This to my mind is immaterial. On the other hand, the DSIDC accepted the said payment and did not dispute the same. DSIDC did not refund the amount deposited or write to the petitioner that the payment was received under protest and without prejudice to their rights. Principle of the estoppel applies. The petitioner thereafter had further made payments of Rs. 2,10,000/- on 5th June, 2002, Rs. 2,10,000/- on 18th December, 2002 and Rs. 1,20,380/- on 23rd April, 2004. The petitioner has made the entire balance payment of the plot.

9. In view of the aforesaid findings, the impugned order dated 28th January, 2008 is set aside and mandamus is issued to the respondents to allot the plot in question to the petitioner. The petitioner will be entitled to cost, which are assessed at Rs.10,000/-. The cost will be paid within four weeks from the date copy of this order is received.

The writ petition stands disposed of.

SANJIV KHANNA, J.

OCTOBER 12, 2009

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