

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

+ LPA 447/2009

M/S JAI BHAGWAN GOEL DAL MILL & ORS. Appellants
Through Mr. S.S. Gautam, Adv.
versus

DELHI STATE INDUSTRIAL AND
INFRASTRUCTURE DEVELOPMENT
CORPORATION LTD. & ANR. Respondents
Through Ms. Anusuya Salwan, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE S.MURALIDHAR

% **ORDER**
22.10.2009

The challenge in this appeal is to a decision dated 20th July, 2009 of the learned single Judge dismissing the appellant's WP(C) No. 5577/2008.

2. The appellant was running two industrial units at village Bakoli, Delhi. In the unit at khasra No. 570 he was processing 'mansoor pulse' while at the unit at khasra No. 544/1 he was processing 'moong pulse'. Both units were located in non-conforming / residential areas. By an order dated 30th October, 1991 the Supreme Court directed the non-conforming units to be removed and relocated. Thereafter, the Government of NCT of Delhi (GNCTD) issued a public notice dated 27th November, 1996 inviting applications for allotment of industrial plots for relocation of industries from residential / non-conforming areas to conforming use areas.

3. The Delhi State Industrial and Infrastructure Development Corporation Limited

(DSIDC) was entrusted with the responsibility of processing the applications and making allotments. The appellant made two separate applications for allotment of two plots. He deposited Rs. 1,20,000/- each towards earnest money.

4. An Office Memorandum dated 20th July, 1999 was issued by the GNCTD regarding the implementation of the decision dated 7th July, 1999 of the Cabinet and a decision taken during the 3rd meeting of the High Powered Project Implementation Committee in respect of the Relocation Scheme. In terms of the said Office Memorandum, in respect of units which were functioning from more than one premises and in respect of which separate applications had been submitted, it was decided that “the requirement of plot area of all the locations should be clubbed together and if it exceeds 400 sq. mtrs., then the provisions proposed for larger units should be applied”. It appears that DSIDC could not allot plots of 400 sq. mtrs. as the number of applicants was large. Ultimately, a decision was taken to allot a plot of only 250 sq. mtrs.

5. The two applications filed by the applicant were thereafter processed. He was asked to make a payment of Rs.1,05,000/- for each plot in terms of the eligibility letters dated 25th April, 2000. In the draw of lots held on 7th May, 2004, the appellant was allotted two industrial plots measuring 250 sq. mtrs. each at a fixed pre-determined price of Rs.4,200/- per sq. mtr. Although, the appellant deposited the payments as demanded, he was not handed over possession of the two plots. By a letter dated 8th November, 2006 he was informed that he could be allotted only one plot. This the appellant challenged by filing the aforementioned writ petition in this Court.

6. In response to the said letter, the appellant, without prejudice to his rights and entitlement, took possession of one of the plots. The amount deposited by him in respect of the other plot was refunded to him by the DSIDC.

7. The learned single Judge held that in terms of para 7(i) of the application form itself, the respondents had reserved their right as to the mode of allotment. The decision of the Commissioner of Industries in that regard was to be “final and binding”. Further, the Commissioner of Industries reserved the right to reject any application without assigning any reason. Consequently, it was held that there was no merit in the writ petition and it was dismissed as such.

8. We have heard Mr. S.S. Gautam, learned counsel for the appellant. He urged that the respondent not only accepted the earnest money at the time of receiving the applications but also allotted two plots to the appellant in the draw of lots held in 2004. The respondent also collected the money in respect of the two plots from the appellant. It is submitted that having accepted the money deposited by the appellant, it was not open to the DSIDC to cancel the allotment of one of the plots and seek to refund the money collected in respect thereof. It is submitted that at the time of making of the application, the policy change had not been brought about and, therefore, it could only be prospective.

9. We do not find any merit in the contentions of the learned counsel for the appellant. The appellant was allotted the two plots pursuant to the draw of lots held in 2004. As rightly pointed out by the learned single Judge, the respondent had made a mistake in making allotment of two plots to the appellant in 2004 as by that time a policy

decision had been taken that where there was an application in respect of more than one unit, the plot size had to be clubbed and the maximum plot size which could be allotted for relocation of such unit could only be 250 sq. mtrs. At the time of making the allotment of the plots to the appellant the change in the policy had already taken place. The appellant did not have any vested right to get an allotment of two plots in his favour.

10. We do not find any error in the impugned judgment of the learned single Judge. The appeal is dismissed.

CHIEF JUSTICE

S. MURALIDHAR, J

OCTOBER 22, 2009
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