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IN THE HIGH COURT OF DELHI AT NEW DELHI

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**Cont. Cas. (C) No.816 of 2004 & C.M. Appl. Nos.15681-15682 of
2004 and 5002 of 2006**

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17.02.2010

SURJEET SINGH UPPAL

.....Petitioner

Through: Mr. Harpreet Singh, Advocate.

Versus

RAJESH SOMMAL & ORS.

.....Respondents

Through: Ms. Saroj Bidawat, Advocate.

Date of Reserve: 8th February, 2010

Date of Order: February 17, 2010

JUSTICE SHIV NARAYAN DHINGRA

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

J U D G M E N T

1. The petitioner has invoked provisions of Contempt of Courts Act against the respondents for non-compliance of the order of this court dated 17th May, 2002.
2. The petitioner has filed C.W. No.1629 of 2002 in respect of allotment of plot in Sanjay Gandhi Transport Nagar. During pendency of this petition, following order was passed on 17th May, 2002 :-

“Learned counsel for the respondent on instructions from Mr. A.K. Srivastava, Legal Assistant, MCD states that the matter was considered by the Committee and the petitioner has been found eligible and the allotment shall be made subject to deposit of the amount @4500/- per sq. mtr. It is further stated that the allotment shall be made by 31st December, 2002.

In view of this statement, the grievance of the petitioner stands satisfied. No further orders are called for in this petition. The same stands disposed of.”

3. Admittedly, the plot was not allotted to the petitioner @ Rs.4,500/- per square meter by 31st December, 2002. The petitioner, therefore, approached this court with a contempt petition seeking punishment of respondent under Contempt of Courts Act.

4. In the response affidavit of Mr. K.C. Sadana, Deputy Director of Sanjay Gandhi Transport Nagar, MCD, Rohini, it has been stated that the allotment in Sanjay Gandhi Transport Nagar was done in two phases by MCD. In Phase I, 1420 plots were carved out and out of total applicants, 1330 applicants were found eligible for allotment of plots in draw held on 27th December, 1986. Further plots could not be cut and the land could not be developed as the Supreme Court had granted stay against possession of the land where about 204 plots were to be carved out. The stay was vacated sometime in the year 1993 and balance 216 applicants were allotted plots out of the first phase. The plots were being allotted on “no profit no loss basis” and whatever cost was being incurred by DDA was being recovered from the applicants. The previous applicants were recovered cost @ Rs.3,600/- per square meter. Subsequently, second phase of the development had taken place and the present petitioner was eligible under the second phase of the development.

5. The committee scrutinized the application for second phase and 253 applicants were found eligible for category A and 493 applicants were found eligible under category B in the second phase. Remaining applicants remained absent and did not produce the requisite documents. The land on which plots of second phase were to be carved was under encroachment of *jhuggi* clusters and despite best efforts of the respondent, these encroachments could not be remove easily and thus, the entire project got delayed and, therefore, it was decided to re-plan the entire project and an integrated project was adopted to adjust the spillover of phase I applicants and phase II registrants on available free land. The proposal for this development was forwarded to school of planning for

approval on 21st February, 2005. The plots were carved out on drawing board but could not be allotted because of there being no provision for essential services on ground like electricity connection, water connection by Delhi Jal Board, etc. No allotment till the date of filing of affidavit (8th February, 2007) had been made to any applicant due to the reasons that land was under possession of *jhuggi jhopri* people and development of the plots had not taken place. The proposal as forwarded by MCD to school of planning was approved by corporation on 21st February, 2005. Draw of lots was fixed on 26th March, 2007. It was submitted that after all the development had taken place, eligible applicant would be dispatched allotment letter soon thereafter.

6. It is not disputed that after filing of this affidavit, allotment letter was dispatched to the applicant in December, 2008. However, the grievance of the petitioner is that the allotment was not made @ Rs.4,500/- per square meter and the MCD was charging present day cost to it.

7. Perusal of the documents filed by the MCD shows that in the year 2001 when second phase was planned, MCD calculated the estimated cost to be incurred on development of the area and this cost came out to be Rs.4,500/- per square meter if the land was available to the MCD in the year 2001 itself. The statement was made in the court on the basis of this proposed cost. It was not stated by MCD that there can be no increase in the cost with passage of time. Since MCD was charging the same rate from all allottees, at which the plot has been offered to the present petitioner, the petitioner cannot make a grievance as he was not being discriminated. There is no reason that MCD should allot plot to the petitioner @ Rs.4,500 per square meter, which was estimated cost in the year 2001, and not the actual cost. The MCD had at that time believed that the land was available and would be developed at this cost. Since the intervening circumstances

show that the land was not made available to MCD and MCD could not develop the land and could not allot the plot without development and providing infrastructure. I thus, consider that no contempt was made out in not allotting the plot by 31st December, 2002 nor any contempt was made out because the petitioner was allotted plot at the same price at which other applicants of phase II are being allotted plots. The court has rather given directions to MCD that rise in cost should be equally distributed on all the applicants of phase II and it should not be that some applicants who are allotted plots later should only be charged more cost and those who were allotted plots earlier should be charged less. Under this policy, MCD has given letters to all the allottees to deposit the additional cost of development. The petitioner is at liberty to accept the plot at the rate offered to him or to forgo the allotment, if he considers that it was not economic for him to take the plot. There is no vested right in the petitioner to take plot at the estimated cost of the year 2001, when the actual development took place in the year 2006-2007 and allotment took place in the year 2008. The order dated 17th May, 2002 was not an undertaking given by the MCD that under all circumstances, the plot will be allotted to the petitioner @ Rs.4,500/- per square meter. In fact, the counsel made statement on the basis of estimated cost which has been placed on record by MCD and on the understanding that the land would be available for development.

8. I, therefore, find that no contempt was made out and the petition is hereby dismissed.

SHIV NARAYAN DHINGRA J.

FEBRUARY 17, 2010
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