

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No. 12556-57 of 2004 & CM No. 8714 of 2004

Reserved on: September 21, 2010

Decision on: October 6, 2010

M/S. ASHOKA ELECTRICAL INDUSTRIES

& ORS.

..... Petitioners

Through: Ms. Radhika Chandershekhar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Ms. Renuka Arora, Advocate.

CORAM: JUSTICE S. MURALIDHAR

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| 1. Whether reporters of the local news papers
be allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | No |
| 3. Whether the judgment should be reported in the Digest? | No |

JUDGMENT

06.10.2010

1. The short prayer in this writ petition is for a direction to the Respondent No. 3 Delhi State Industrial Development Corporation Limited ('DSIDC') to extend the benefit of the general amnesty scheme to the Petitioners in respect of Plot No. 201, Pocket-K, Sector2, admeasuring 150 sq.m. in the Bawana Industrial Area (hereafter 'the plot in question'). The Petitioner also challenges the letter dated 15th December 2003 issued by the DSIDC cancelling the Petitioners' allotment of the plot in question.

2. The Petitioner had earlier filed Writ Petition (C) Nos. 7917 & 7918 of 2004 in this Court challenging the cancellation of allotment. This Court recorded the statement of the learned counsel for the Petitioners that "in view of the amnesty scheme brought into force on 28th April 2004, the Petitioner should be permitted to avail of the said scheme as the Petitioner

was only short of Rs. 3,000/- to avail of the amnesty scheme.” This Court by its order dated 17th May 2004 left it open to the Petitioners to apply under the amnesty scheme and seek condonation of delay in so far as the amount of ₹ 3,000/- was concerned. It was further directed that “the Respondent shall consider the case of the Petitioner in accordance with the norms”.

3. Thereafter the Petitioners tendered ₹ 3,000/- and also submitted a fresh application on 14th June 2004 to the DSIDC. The Petitioners state that they learnt that the DSIDC had refunded the loan amount advanced by the Delhi State Finance Corporation (‘DFC’) to the Petitioners for the purchase of the plot in question. Thereafter, the Petitioners got bank drafts in the sum of ₹ 2 lakhs and another draft in the sum of ₹10,000/- in favour of the DSIDC prepared and submitted them to the DFC for onward submission to the DSIDC. The DSIDC however returned the drafts and in the circumstances the Petitioners again approached this Court with this petition.

4. In its order dated 30th July 2004, this Court recorded that the Petitioners had brought a total sum of ₹ 2,10,000/- to the Court and that the Petitioners were willing to pay the balance amount as well. It was then directed that the Petitioners should approach the DSIDC to ascertain the balance amount and thereafter deposit the entire balance amount within two days.

5. The Petitioners subsequently filed documents to show that the order dated 30th July 2004 was complied with. In its reply to the writ petition, it is pointed out by the DSIDC that the Petitioner failed to pay the installment

amounts to the DFC as per the loan agreement. Consequently, the DFC informed the DSIDC that the loan amount should be refunded to it along with the margin money deposited by the Petitioner with the DSIDC. This led to the impugned order dated 15th December 2003 of the DSIDC cancelling the allotment.

6. It is pointed out by the DSIDC that the allotment letter dated 23rd October 2000 sent to the Petitioners intimating the cost to be ₹ 4200/- per sq.m. was only a tentative rate and was subject to change. In terms of the revised rate, the total cost of the plot worked out to ₹ 6,30,000/-. The Petitioners had deposited ₹ 3,15,000/- up to 25th September 2001 and this was only 50% of the cost. As regards the payment of ₹ 1,35,000/- claimed to have been made by the Petitioners, the DSIDC denied receiving any such payment. The DSIDC has enclosed the relevant extracts from the accounts.

7. This Court finds that the only explanation offered by the Petitioners for the delay in making the payment within time was that no demand has been raised and, therefore, they could not deposit the amount. It is pointed out by the DSIDC that an advertisement was issued in the newspapers on 17th August 2003 indicating the time within which objections to the revision of rates had to be filed. It is pointed out that it was for the Petitioners to ascertain the balance amount and pay it within the extended time. There could not be an indefinite extension of time for making payment. The refund having been made by the DSIDC to the DFC on 15th December 2003 itself, the unilateral payment made thereafter by the Petitioners to the DFC was to no avail.

8. It appears that the Petitioners failed to follow up the matter promptly and diligently. In fact, the Petitioners claim not to have been aware of the fact that the DFC had cancelled the loan and the DSIDC had refunded the amount to the DFC. In the circumstances if the allotment was cancelled, the DSIDC cannot be faulted. It is not possible to have an indefinite extension of time for making payments as these are covered by the terms and conditions of the allotment. The explanation offered by the DSIDC for not considering the case of the Petitioners for restoration of allotment appears to be a plausible one and does not suffer from any legal infirmity.

9. For the aforementioned reasons, this Court is not inclined to entertain this writ petition and grant the reliefs as prayed for. It will be open to the Petitioners to seek from the DSIDC refund, in accordance with law, of whatever monies that have been paid to the DSIDC pursuant to the order dated 30th July 2004 of this Court. The DSIDC shall process such request in accordance with the extant rules and refund to the Petitioners the admissible amount together with interest, if any, thereon within four weeks thereafter.

10. With the above observations, the writ petition and the application are dismissed.

S. MURALIDHAR, J

**OCTOBER 6, 2010
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