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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7143/2010

MOHD JAAN

..... Petitioner

Through : Mr. J.K. Gupta, Advocate.

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE
DEVELOPMENT CORPORATION AND ANR

..... Respondents

Through : Ms. Anusuya Salwan, Advocate for
R-1.

Ms. Ruchi Sindhwani, Advocate for R-2.

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W.P.(C) 7144/2010

FIROJ AHMED

..... Petitioner

Through : Mr. J.K. Gupta, Advocate.

versus

DELHI STATE INDUSTRIAL & INFRASTRUCTURE
DEVELOPMENT CORPORATION AND ANR

..... Respondents

Through : Ms. Anusuya Salwan, Advocate for
R-1.

Ms. Ruchi Sindhwani, Advocate for R-2.

CORAM: JUSTICE S. MURALIDHAR

ORDER

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26.10.2010

CM No. 14195 of 2010 (exemption) in W.P. (C) 7143/2010

CM No. 14198 of 2010 (exemption) in W.P. (C) 7144/2010

Exemption allowed subject to all just exceptions.

The applications are disposed of.

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

CMs 14193/10 (stay) & 14194/10 (directions) in W.P.(C) 7143/2010

W.P.(C) Nos. 7143/2010 & 7144/2010

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CMs. 14196/10 (stay) & 14198/10 (directions) in W.P.(C) 7144/2010

1. The challenge in each of the writ petitions is to a demand raised by the Delhi State Industrial & Infrastructure Development Corporation Ltd. ('DSIIDC') requiring each of the Petitioners to deposit cost of the plots allotted to them admeasuring 100 sq. m. in Sector-E, Bawana-II, Bhorgah, @ ₹ 15,566/- per sq. m. The contention is that the cost originally communicated when the applications were invited way back in 1996 was ₹ 3,000/- per sq. m. and, therefore, charging of cost more than five times the original cost is wholly arbitrary, illegal and liable to be set aside.

2. This Court finds that the scope of interference by this Court in exercise of its powers under Article 226 of the Constitution in matters involving fixation of price by the authorities for land is narrow. In *Kavita Ahuja v. Delhi State Industrial & Infrastructure Development Corporation Ltd.* (decision dated 16th February 2010 in Civil Appeal No. 2192/2010 etc.) the Supreme Court was considering the challenge to the action of the DSIIDC in charging ₹ 4,200/- per sq. m. for plots in Bawana Industrial area, ₹ 5,400/- per sq. m. for plots in the Industrial estate at Narela, Jhilmil and Badli and ₹ 7,560/- per sq. m. for plots in Patparganj Industrial area. A Single Judge of this Court had set aside the demand for the increased cost on the ground that the DSIIDC failed to show that it had undertaken any development activity or incurred any expenditure loss for the plots. This was reversed by the Division Bench of this Court by a judgment dated 22nd February 2008. The Division

per sq. m. for the plots at Narela. This judgment was challenged in the Supreme Court and the order of the Division Bench of this Court was upheld. In para 13, it was observed by the Supreme Court as under:

“13. The price of Rs. 5400/- per sqm fixed in 2001 is not disputed by the allottees. Having regard to the interest on the investment by way of financing cost, overheads and other factors, if the policy of the NCT of Delhi is to increase the price every year by 20%, it cannot be stated that the said increase is unreasonable or arbitrary. Having regard to the fact that the lands are being continuously acquired and developed and allotted, it will be very difficult to calculate the actual costs at any giving point of time. So long as the Corporation has shown that it had adopted a reasonable method of fixation of allotment prices and has asserted that price fixation is on a ‘no profit no loss’ basis, the price is not open for dealt with the issue appropriately and has rightly upheld the price of Rs. 7776/- per sq.m.”

3. This Court finds that, in principle, the Supreme Court declined in the to interfere with the enhanced cost demanded by the DSIIDC in the Narela cases on account of several factors.

4. Even, in these cases, at the time of inviting application in 1996, the DSIIDC had made it clear that:

“5. Estimated cost of industrial flat/plot the estimated cost of one flatted factory shall be around Rs. 7 lacs and that the industrial plot shall be approx. Rs. 3000/- per square meter. These are estimated figures and are subject to change depending upon the cost of acquisition, construction/development, location of flatted factory

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complexes/industrial area, other inputs etc.”

5. The Petitioners could not have been in doubt that the above cost was tentative and subject to further upward revision from time to time.

6. There are no judicially manageable standards to enable this Court to determine whether the charging of ₹ 15,566/- per sq. m. for a plot at Bhorgah is arbitrary or unreasonable. Learned counsel for the Respondents informs this Court that the cost revision was based on several factors and that the figure was arrived at after an elaborate exercise, records for which are available with the Respondents. Be that as it may, given the judgment of the Supreme Court in *Kavita Ahuja*, it is not possible for this Court to interfere in the matter of enhancement of the costs for the industrial plots at Bhorgah is Bawana Industrial Area.

7. There is no merit in either of the petition and both are dismissed as such but, in the circumstance, with no order as to costs. The pending applications are also dismissed.



S.MURALIDHAR, J

OCTOBER 26, 2010

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