

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

Reserved on: July 24, 2012

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Pronounced on: August 07, 2012

+ (i) W.P.(C) 2606/2011 & CM No. 5572/2012 (Stay)
& C.M. No. 9115/2012 (Directions)

HARBHAJAN SINGH AHLUWALIA Petitioner
Through: Mr. Ashok Sapra, Advocate

versus

DDA & ANR. Respondent
Through: Mr. Ajay Verma & Mr. Amit Mehra,
Advocates for Respondent No.1 -
DDA
Mr.S.K. Rungta, Senior Counsel,
with Mr.Prashant Singh, Ms. Neha
Tanwar and Ms. Pratiti Rungta,
Advocates for Respondent No. 2

+ (ii) W.P.(C) 2622/2011 & CM No. 5598/2011 (Stay)

KARNAIL SINGH & ANR. Petitioners
Through: Mr. Ashok Sapra, Advocate

versus

DDA & ANR. Respondents
Through: Mr. Ajay Verma & Mr. Amit Mehra,
Advocates for respondent No. 1 -
DDA
Mr.S.K. Rungta, Senior Advocate,
with Mr.Prashant Singh, Ms. Neha
Tanwar and Ms. Pratiti Rungta,
Advocates for respondent No. 2.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

1. Since the Communication of 31st January, 2011 impugned in the above two captioned writ petitions is the same, so with the consent of learned counsel for the parties above captioned petitions are heard together and are being disposed of by this common order.

2. In lieu of petitioners surrendering their possession over Plot No.T-2228/2 measuring 138 sq.yds., they have been allotted alternate plot of 72 sq.yds. adjacent to Plot No.T-2238 and Plot No.T-2233/3 (Gurudwara), i.e., in between *religious and future use plot*, abutting 9M/13.5MR/W road, Plot No.T-2245 measuring 111 sq.yds. adjacent to Plot No.T-2323 vide aforesaid Communication of 31st January, 2011, which is impugned in the above captioned two writ petitions.

3. The first round of litigation ended with order of 27th August, 2002 in C.W. No.3733/2002, wherein it was observed that the grievance of the petitioners does not survive in view of the counter affidavit filed by the respondent to the effect that in lieu of petitioners being evicted from the structure in their occupation in *Ashok Nagar, Faiz Road, Karol Bagh, New Delhi* to enable the demolition of the said structure, they would be offered alternate plots at the residential block at the same site and accordingly, for ancillary grievance, they were directed vide aforesaid order to make a representation to the respondent, which was duly made and the outcome of the said representation was allotment of plot between T-2353 and T-2355 which was not accepted by the petitioners. Now vide impugned Communication, plot adjacent to T-2238 has been allotted.

4. According to the petitioners, impugned Communication runs counter to *Minutes of Meeting* of June, 2002 (Annexure-4), circulated on 17th July, 2002, wherein it was resolved as under:-

“The occupant of T-2228/2 having area of 133 sq.yds. shall be given space between T-2353 and T-2355 which is of 131 sq.mtr. The plan will be modified accordingly by the Planning Wing. This was agreed to by all including the affected persons.”

5. Violation of *doctrine of promissory estoppel* is alleged by the petitioners as it is stated that earlier, the land in question i.e. Plot No.T-2228/2, *Ashok Nagar, Faiz Road, Karol Bagh, New Delhi* was required for widening of the road but later on, it was disclosed that it was required for the purpose of building MIG flats. However, to resolve the dispute, petitioners assert that they are amenable to previously agreed site between Plot No.T-2311 and T-2313 and atleast two months time is needed to shift to the alternate agreed site.

6. The stand taken by the respondent - DDA in its counter affidavit in writ of Karnail Singh & Another, is that Late Shri Moola Singh father of petitioners – *Karnail Singh and Jagjit Singh* had occupied Plot No.T-2233/3 for Gurudwara and had started residing there and since Plot No.T-2233/4 is part of aforesaid Plot No.T-2233/3, therefore petitioners cannot be considered separately for allotment of an alternate plot separate of Gurudwara. Respondent - DDA maintains that Plot No.T-2233/4 was not shown to be separate from Gurudwara in the earlier writ petition - CW No.3733/2002 nor any undertaking was given in the earlier writ of making two separate allotments, i.e., one to the petitioners and another to the Gurudwara. However, in the rejoinder filed thereto, it is reiterated by the

petitioners that Plot No.T-2233/4 is under the operation of Gurudwara but is a distinct and separate entity for the purpose of allotment of alternate plot.

7. At the hearing, it was vehemently asserted by petitioners' counsel that the respondent - DDA should not be allowed to wriggle out of its decision (Annexure-4) to allot an alternate plot of 131 sq.yds. between Plot Nos.T-2353 and T-2355 and in any case, to allot agreed site between Plot No.T-2311 and T-2313.

8. The stiff opposition by learned standing counsel for the respondent - DDA to the aforesaid plea is that the petitioners have repeatedly approached respondent - DDA for change of alternate plot and this stands illustrated from Communication of 16th September, 2002 of petitioner – Harbhajan Singh (Annexure R-1) and the petitioners cannot pick and choose a particular plot. It was controverted that respondent - DDA had ever agreed to allot a Plot alongwith Plot No.T-2311 and T-2313.

9. It was urged on behalf of the respondent - DDA that the *doctrine of promissory estoppel* does not get attracted as the land in question, i.e., Plot No.T-2228/2, Ashok Nagar, Faiz Road, Karol Bagh, New Delhi, is acquired for public purpose and the change of the public purpose is inconsequential. It was urged on behalf of the respondent - DDA that there is no violation of the stand taken by the respondent - DDA in the earlier writ of making an allotment to the eligible/affected persons at the same site and when this is done, by allotting Plot between T-2353 and T-2355, it was not accepted and now, vide impugned Communication allotment has been made while adhering to the stand already taken of being in vicinity to the land in

question.

10. Having considered the submissions advanced and upon perusal of the material on record, I find that the *Minutes of Meeting* (Annexure-4), circulated on 17th July, 2002 was just a proposal which was subject to approval and modification and same cannot hold good for all the times to come. Otherwise also, it does not stand satisfactorily explained as to why the alternate allotment made way back in the year 2002 of a plot between T-2353 and T-2355 was not accepted by the petitioners.

11. In any case, impugned Communication of 31st January, 2011 reveals that what is being now allotted in the alternate is much more than what the petitioners are required to surrender for a public purpose and so, it does not matter whether it is for widening of the road or for building MIG flats by the respondent - DDA. So, the *doctrine of promissory estoppel* does not get attracted at all.

12. Since the petitioners have not been able to show as to why the alternate allotment made vide Communication of 31st January, 2011 suffers from any fundamental shortcoming rendering it unacceptable, therefore, the petitioners cannot dictate that instead of plot allotted between Plot Nos.T-2353 and T-2355, another plot alongwith T-2311 and T-2313 with two sides open be allotted. With passage of time i.e., from the year 2002 till now, much has changed and so, the petitioners cannot insist that now site between Plot No.T-2311 and T-2313 be allotted as there is nothing on record to show that the said site was agreed upon to be allotted to the petitioners. Thus, finding no palpable error in the impugned Communication of 31st January, 2011, both these petitions are accordingly dismissed while leaving the parties to

bear their own costs. Interim order of status-quo stands vacated and the pending applications are disposed of as infructuous.

(SUNIL GAUR)
Judge

August 07, 2012
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