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OM PRAKASH

Through:

versus

DELHI DEVELOPMENT AUTHORITY

Through:

+

SURESH KUMAR

Through:

versus

DELHI DEVELOPMENT AUTHORITY

Through:

+ (3) **W.P.(C) No. 6850/2011**

SANTO DEVI Petitioner
Through: Mr. Sumit Kr. Khatri, Mr.
Devendra Kumar Sharma &
Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (4) **W.P. (C) No. 4028/2011**

GANGA RAM Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent –
DDA

+ (5) **W.P.(C) No.4029/2011**

RAGHUBIR SINGH Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (6) **W.P.(C) No.4031/2011**

KARTAR SINGH Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

Versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (7) **W.P.(C) No.4032/2011**

M/s SANT PLASTIC COMPANY Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (8) **W.P.(C) 4034/2011**

SOHAN LAL Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (9) **W.P.(C) No. 4035/2011**

GULZARI LAL Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (10) **W.P.(C) 4036/2011**

KISHORI LAL Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (11)

W.P.(C) 4038/2011

AJIT KUMAR

..... Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (12)

W.P.(C) 6719/2011

UMED SINGH

..... Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms. Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (13)

W.P.(C) 6724/2011

HANUMAN BUSWALA

..... Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (14)

W.P.(C) 6725/2011

JEET KUMAR DAYMA

..... Petitioner

Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR.

..... Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (15) **W.P.(C) 6848/2011**

SURESH KUMAR Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (16) **W.P.(C) No. 6849/2011**

KULWANT SINGH Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (17) **W.P.(C) No. 6851/2011**

BABU LAL Petitioner
Through: Mr. Sumit Kr. Khatri,
Mr. Devendra Kumar Sharma
& Ms.Rubi, Advocates

versus

DELHI DEVELOPMENT AUTHORITY
& ANR. Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (18) **W.P.(C) No. 1354/2012**

RAJINDER KUMAR Petitioner
Through: Mr. Ashok Sapra, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ANR.
Respondents
Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (19) **W.P.(C) No. 1355/2012**

HARI NARAYAN Petitioner
Through: Mr. Ashok Sapra, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ANR.

Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (20) **W.P.(C) No. 1363/2012**

SHRI RADHEY SHYAM Petitioner

Through: Mr. Ashok Sapra, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ANR.

Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika
Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

+ (21) **W.P.(C) No.1367/2012**

OM PRAKASH Petitioner

Through: Mr. Ashok Sapra, Advocate

versus

DELHI DEVELOPMENT AUTHORITY & ANR.

Respondents

Through: Mr.Rajiv Bansal, Ms.Kanika

Agnihotri, Ms.Radhika Gupta,
Mr.Rahul Bhandari and
Mr.Devvrat Singh Raghav,
Advocates for respondent -
DDA

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

1. In the above captioned twenty-one writ petitions, direction is sought to respondent- DDA to withdraw its demand-cum-allotment letters (*issued during the period from November, 2010 till April, 2011*) demanding premium @ ₹16,931/- per sq. meter for allotment of plots in PVC Market, at Tikri Kalan, Delhi and to direct respondent-DDA to accept premium @ ₹7374/- per sq. meter as per the original demand letter of 12th January, 2000.

2. In the year 1995, a major fire had devastated PVC Market, at Jwalapuri, Delhi and then it was decided by respondents to shift the PVC Market to Tikri Kalan, Delhi. Petitioners are PVC traders, who claim to be the original allottee of sites at Jwalapuri, Delhi and the other category comprised of encroachers / squatters, who were there in the aforesaid PVC Market. During the years between 1996 to 2002, respondent-DDA had allotted plots of size varying between 40-55 sq. meter to 1306 such encroachers and after identifying 479 original allottees of plot in PVC Market, Jwalapuri, Delhi, who had plots of 21 sq. meter and 84 sq. meter, they were offered plots of 45 to 55 sq. meter and 124 to 131 sq. meter at the new PVC Market, Tikri Kalan,

Delhi in the year 2000.

3. Instead of accepting the aforesaid offer of plots at PVC Market in Tikri Kalan, Delhi, petitioners through their association had represented to respondent-DDA to seek allotment of bigger size of plot of 300 sq. meter at PVC Market, Tikri Kalan, Delhi with increased FAR. However, there was no response from respondent-DDA to petitioners' Representation made in the year 2000 itself but even petitioners remained silent till they had received communication from respondent-DDA in the year 2006-2007 revising the rate of plots in question from ₹7,374/- per sq. meter to ₹9,813/- per sq. meter for allotment of plots in PVC Market at Tikri Kalan, Delhi. Thereupon, petitioners of W.P.(C) Nos. 6851, 4028, 4036, 6719, 6724, 6768, 6748 to 6850 of 2011 had deposited varying amounts in the year 2006-2007 and thereafter but not the demanded amount with the exception of petitioners of WP(C)No.4027/2011 & 4029/2011 having deposited the demanded amount. Petitioners in the remaining writ petitions, except that of WP(C)Nos.4035/2011 and 6725/2012, had deposited varying amounts after filing of the writ petitions but again not the demanded amount and while entertaining their writ petitions, they were allowed to make interim deposit @ ₹9,813/- per sq. meter instead of demanded amount @ ₹16,931/- per sq. meter. No amount had been deposited by petitioners of WP(C)Nos.4035/2011 and 6725/2011 till filing of the writ petitions by them.

4. Again there was a complete silence from the year 2007 till March, 2010. In the meeting chaired by Lieutenant Governor: Delhi on 28th April, 2010, it was resolved that premium for plot in PVC

Market at Tikri Kalan will be charged on the basis of *pre-determined rates* (PDR) applicable on the day of payment of premium deposited for Jwalapuri plots plus additional amount as per Authority Resolution and in the follow-up meeting of 7th December, 2010, it was finally resolved that the premium of plots allotted to PVC traders at Tikri Kalan would be charged on the basis of PDR applicable on the date of payment of premium deposited for Jwalapuri plots updated by levying interest as per Authority Resolution and as the amount of updated PDR was found to be more than the current PDR of Tikri Kalan plots, the approval accorded by Lieutenant Governor : Delhi was to charge lower of the two rates from the allottees.

5. In February, 2011 revised premium @ ₹16,931/- per sq. meter for the plots in PVC Market at Tikri Kalan, Delhi was demanded in pursuance to the respondent's decision as reflected in (*Annexure – R1/3*) with the counter filed by respondent – DDA. Most of the petitioners had made representations in May, 2011 against impugned premium demanded in February, 2011 and when there was no response to representations of petitioners, they had filed the instant writ petitions.

6. The stand of respondents as taken in the counter affidavit filed by respondent – DDA, is as under:-

“On receipt of calculations from Finance, it was gathered that the amount of premium to be raised to an individual allottee was much higher than the amount of premium so calculated taking into account the current PDR for the year 2010-11 i.e. ₹16,931/-. Therefore, the matter was discussed in the meeting of the Senior Officers of DDA held at Raj Niwas on 7.12.2010. The

following decision was taken:

Para 31 of the Minutes:

Present Commissioner (LD) mentioned that the Hon'ble Lt. Governor at the meeting taken by him on 28.04.2010 has approved that premium of plots allotted to PVC traders at Tikri Kalan would be charged on the basis of PDR applicable on the date of payment of premium deposited for Jwalapuri plot, updated by levying interest as per Authority's Resolution PC(LD) mentioned that the amount of updated PDR is more than the current PDR at Tikri Kalan plot. In view of this, Hon'ble Lt. Governor approved that lower of the two rates should be charged from plot owners."

7. It is asserted by learned counsel for petitioners that the revision of the premium for the plots in question is arbitrary and since allotments in question were made in the year 2000 therefore, respondents cannot charge premium for these plots at any other rate than the one disclosed at the time of allotment of these flats in the year 2000 i.e. @ ₹7,374/- per sq. meter. It is vehemently urged on behalf of petitioners that there is no reasonable basis to enhance the premium amount for these flats from ₹7,374/- per sq. meter to ₹16,931/- per sq. meter as respondent – DDA has already allotted plots to squatters of PVC Market @ ₹2,500/- per sq. meter only and allotment of plots in question has been made to other persons in PVC Market at Tikri Kalan, Delhi at a much lesser rate. To substantiate it at the hearing, copies of some allotment letters of March, 2011 were shown to the Court to indicate that premium of the plots in question of a lesser size, is @ ₹3,040/- per sq. meter and ₹9,813/- per sq. meter. Thus it is

contended on behalf of petitioners that revised premium for the plots in question is not liable to be paid by petitioners who were allotted these plots way back in the year 2000 and so the applicable rate of premium would be ₹7,374/- per sq. meter and not @ ₹16,931/- per sq. meter as demanded by the respondents.

8. To controvert the stand of petitioners as noted herein above, learned counsel for respondents contends that Communication of 12th January, 2000 by respondent – DDA was not a demand notice but was a general circular, by which offer was made to allot the plots in PVC Market at Tikri Kalan which was not accepted by petitioners who had sought allotment of larger size of plots, with more FAR and reasonableness of price fixation of the plots in question, is a policy decision of respondents which is not open to judicial review as it is not shown that it was vitiated by colourable exercise of power or was discriminatory. Reliance is placed upon decisions in *Gupta Sugar Works Vs. State of U.P. & others* 1987 (Supp) SCC 476, *H.S. Gupta & others Vs. Delhi Development Authority*, AIR 1999 Delhi 59 and *Shakti Cottage Industries & others Vs. Delhi Development Authority*, 2000 (53) DRJ 664 in support of stand taken as aforesaid.

9. Having dwelt upon the contentions advanced, decisions cited and the material on record, it becomes apparent that Communication of 12th January, 2000 of respondent – DDA to the President of *PVC and Plastic Waste Dealers Association* is a crucial basic document which would throw light on the controversy in question i.e. whether aforesaid Communication was an offer for allotment of these plots or was infact an allotment of the plots in question. A bare reading of this

Communication of 12th January, 2000 would reveal the true picture and so it is being reproduced below:-

12.01.2000

COMMERCIAL LANDS BRANCH

*F-100(88)/99/CL/DDA/61
Director (CL)/DDA*

*Shri Hira Lal Badsawal
President of PVC & Plastic Waste Dealers Association
S-119, PVC Market, Jawalapuri,
New Delhi – 110041*

Subject : Allotment of plots of original allottee/legal transfer of Jwalapuri Market Traders at Tikri Kalan.

Kindly refer to your letter dated 09.04.99 and 24.05.99 on the subject cited above. I am directed to inform you may kindly convey to all the members of the Association who were allotted plots in PVC Market, Jwalapuri or are legal transferee of such plots to apply in the prescribed format for allotment of alternative plot in PVC Market, Tikri Kalan by 31.01.2000. Necessary application forms alongwith terms and conditions of allotment can be purchased from the Sales Counter located at 'D' Block, Vikas Sadan, New Delhi from 17.01.2000 on payment of Rs.50/- only. The premium for land at Tikri Kalan has been currently fixed @ Rs. 7,734/- per sq. meter for a plot size of 124 sq. meter and 131.75 sq. meter and Rs.6,146/- per sq. meter for a plot size from 25.20 sq. meter to 53.50 sq. meter. I may also inform you that the rates will be irrevocable from the allottees who do not surrender the plots allotted to them at PVC Market, Jwalapuri. However, if the allottee surrenders the original plot allotted at PVC Market,

Jwalapuri, he will be charged pre-determined rates of Rs.3,687/- per sq. meter for a plot size of 124.00 sq. meter and 131.75 sq. meter and Rs.3,492/- per sq. meter for plot sizes from 25.20 sq. meter to 52.50 sq. meter. These rates are applicable upto 31.03.2000.

In this connection, I may also inform you this is the final opportunity which is being given to the PVC dealers and no request thereafter shall be entertained for alternative allotment in PVC Market, Tikri Kalan or elsewhere.

-sd-

*(Suraj Roy)
Director (CL)/DDA”*

10. Aforesaid Communication of 12th January, 2000 of respondent – DDA upon which case of the petitioners is based, was an offer for allotment of plots of different sizes for which the current rate of premium was ₹6,146/- per sq. meter and ₹7,374/- per sq. meter and for the PVC dealers and Plastic Waste dealers who would surrender their allotment of plot at PVC Market Jwalapuri, the *pre-determined rates* chargeable then was quite nominal i.e. @ ₹3,492/- per sq. meter and ₹3,687/- per sq. meter. No doubt, most of the petitioners had submitted their application forms in February, 2000 itself for allotment of additional plot in PVC Market at Tikri Kalan but they became dormant after making representation to obtain larger size of plots with increased FAR, till they had received the impugned Communication requiring payment of premium at the current *pre-determined rates*. Pertinently, petitioners had taken no steps to question revised *pre-determined rate* of ₹9,813/- per sq. meter for the plots in question, when demanded by the respondent from petitioners in the year 2007–

2008.

11. Since there was no unequivocal acceptance of the offer of plots in question made in February, 2000, by petitioners, nor premium of these plots at then prevalent *pre-determined rates* was deposited by petitioners, therefore, they cannot legitimately claim that allotment of plots in question be made to them in the year 2011 at *pre-determined rates* as prevalent in the year 2000. For the delay and lapses on the part of petitioners, they have to suffer because enforceable right would have accrued to petitioners if they had accepted the offer of plots in question made in February, 2000 to them by paying the premium demanded by the cut-off date. Having not done so, petitioners cannot legitimately assail current *pre-determined rates* for allotment of larger size of plots now made to them vide impugned demand-cum-allotment letter in February, 2011 as these allotment letters are proceeded by draw of lots.

12. Had petitioners complied with the stipulations in Communication of January, 2000, in letter and spirit to promptly seek allotment of plots in question, then only they could have obtained these plots at the then prevalent rates. Having defaulted, now petitioners cannot have the plots in question at the then prevalent rates, precisely for the reason that even if the then prevalent rate is adopted still applicable interest as per respondent – DDA's Authority Resolution is payable, which would make the updated *pre-determined rates* more than the current *pre-determined rates* and respondents have already taken a decision that lower out of the two rates i.e. updated *pre-determined rates* and current *pre-determined rates* should be

charged from petitioners who have been allotted the plots in question in February, 2011 after draw of lots.

13. Respondents' policy decisions of 28th April, 2010 and 7th December, 2010 (*Annexure – R-1/3 colly.*) cannot be labeled to be arbitrary, by simply asserting so at final hearing without pleadings, thereby denying opportunity to opposite side to controvert it. How and on what basis, it is so asserted by learned counsel for the petitioners, it is not disclosed. Fixation of current *pre-determined rates* is neither shown to be faulty nor can it be so inferred from the material on record. Even calculation of impugned premium demanded is not shown to be erroneous. So petitioners have no basis to allege that the current *pre-determined rates* are exorbitant as the same cannot be compared with the *pre-determined rates* of the year 2000. Even if *pre-determined rates* of the year 2000 is adopted, still with stipulated levy of interest for the intervening period, it infact exceeds the current *pre-determined rates*. Having scrutinized the aforesaid policy decision, I find it to be informed with reason as it takes into account the ground reality that the business of PVC traders and Plastic Waste dealers/squatters is inter-dependable but both of them are not at par and so allotment of plots of varying size to these two different set of allottees has a reasonable basis and thus respondents' policy decision (*Annexure – R-1/3 colly.*) cannot be termed to be arbitrary or discriminatory.

14. In view of the foregoing narration, this Court finds that the impugned premium demanded by respondents is neither vitiated by

vice of arbitrariness nor can be said to be discriminatory as it is not the case of the petitioners that they have surrendered their original plots at PVC Market Jwalapuri and so they cannot claim the allotment of these plots at a rate lesser than the one demanded by the respondents. Since by virtue of an interim order in these matters, petitioners were permitted to pay the premium for these plots @ ₹9,813/- per sq. meter, therefore, while vacating the interim order, these writ petitions except W.P.(C) No. 4027/2011 & W.P.(C) No. 4029/2011 are dismissed while granting four weeks time to petitioners to pay the premium demanded after adjusting the payments already made by them. If the needful is not done within the above stipulated period, then respondents would be at liberty to proceed in accordance with the applicable rules and regulations. Petitioners of W.P.(C) No. 4027/2011 & 4029/2011 are held to be entitled to allotment of plots allocated to them at *pre-determined rates* of the year 2007 i.e. @ ₹9,813/- per sq. meter, as they had promptly paid premium amount when demanded and because silence of respondent – Delhi Development Authority after afore-deposit remains unexplained.

15. With aforesaid directions, these writ petitions and the pending applications are disposed of, while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

October 19, 2012
mk/rs