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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgment: 06.02.2017

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W.P.(C) 422/2007 & C.M. No.757/2007

ASHWINI KAPOOR

..... Petitioner

Through

None.

versus

MCD & ORS.

..... Respondents

Through

Mr.Ajay Aroraa, Advocate for MCD.

Mr.Ajay Verma, Advocate for DDA.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (oral)

For orders, see files of W.P. (C) No. 13895/2006.

INDERMEET KAUR, J

FEBRUARY 06, 2017

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Judgment: 06.02.2017

+ W.P.(C) No.13895-918/2006 & C.M. Nos.10894/2006, 13430/2006 & 13431/2006

ANIL DEWAN & OTHERS

..... Petitioners

Through None.

versus

MUNICIPAL CORP OF DELHI & ANR

..... Respondents

Through Mr.Ajay Aroraa, Advocate for MCD.

Mr.Ajay Verma, Advocate for DDA.

+ W.P.(C) 14974-978/2006

DINESH KUMAR & ORS.

..... Petitioners

Through None.

versus

MCD & ANR

..... Respondents

Through Mr.Ajay Aroraa, Advocate for MCD.

Mr.Ajay Verma, Advocate for DDA.

W.P.(C) 15120/2006 & C.M. No.12066/2006

HARISH CHANDER SETHI

..... Petitioner

Through Mr.Manish Srivastava and Mr. Ashok Kumar Sharma, Advocates.

versus

MCD & ANR

..... Respondents

Through Mr.Ajay Aroraa, Advocate for MCD.

Mr.Ajay Verma, Advocate for DDA.

W.P.(C) 15717/2006 & C.M. No.12591/2006

MINAKSHI TRIVEDI

..... Petitioner

Through Mr.Manish Srivastava and Mr. Ashok Kumar Sharma, Advocates.

versus

MCD & ANR

..... Respondents

Through Mr.Ajay Aroraa, Advocate for MCD.

Mr.Ajay Verma, Advocate for DDA.

- + W.P.(C) 142/2007 & C.M. No.256/2007
JEEVAN JYOTI ENTERPRISES P.LTD Petitioner
Through Mr. Maneesh Goyal, Adv.
versus
MCD & ORS. Respondents
Through Mr. Ajay Aroraa, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.
- + W.P.(C) 143/2007 & C.M. No.258/2007
INSPIRATION DEALERS P.LTD. Petitioner
Through Mr. Maneesh Goyal, Adv.
versus
MCD & ORS. Respondents
Through Mr. Ajay Aroraa, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.
- + W.P.(C) 144/2007 & C.M. No.260/2007
HUM LOG TRADERS P.LTD. Petitioner
Through Mr. Maneesh Goyal, Adv.
versus
MCD & ORS. Respondents
Through Mr. Ajay Aroraa, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.
- + W.P.(C) 393/2007 & C.M. No.713/2007
ANIL AGGARWAL Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr. Ajay Aroraa, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.
- + W.P.(C) 394/2007 & C.M. No.715/2007
RAJINDER GOEL Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr. Ajay Aroraa, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.

- + W.P.(C) 421/2007 & C.M. No.755/2007
RAJNI NASSA Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 422/2007 & C.M. No.757/2007
ASHWINI KAPOOR Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 496/2007 & C.M. No.897/2007
SANJIV KUMAR JAIN Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 497/2007 & C.M. No.899/2007
VINOD KUMAR SHARMA Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 498/2007 & C.M. No.905/2007
RAJ & SONS P. LTD. Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.

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- + W.P.(C) 499/2007 & C.M. No.907/2007
RAKESH GULATI Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 517/2007 & C.M. No.953/2007
SUMIT RATHOR & ORS. Petitioners
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 540/2007 & C.M. No.1003/2007
RAJEEV KUKREJA Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 569/2007 & C.M. No.1051/2007
KAILASH DEVI Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 573/2007 & C.M. No.1057/2007
SANTOSH KUMAR VERMA Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.

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- + W.P.(C) 622/2007 & C.M. No.1152/2007
GAGAN CHOPRA Petitioner
Through None.
versus
MCD & ORS Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 638/2007 & C.M. No.1171/2007
ANDND SWAROOP NAYYAR Petitioner
Through None.
versus
MCD & ORS Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 639/2007 & C.M. No.1173/2007
VIRENDER KUMAR Petitioner
Through None.
versus
MCD & ORS Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 640/2007 & C.M. No.1175/2007
RAJESH KUMAR KHOSLA Petitioner
Through None.
versus
MCD & ORS Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 642/2007 & C.M. No.1180/2007
M/S BHIKAM CHAND BAID Petitioner
Through None.
versus
MCD & ORS Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.

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- + W.P.(C) 752/2007 & C.M. No.1410/2007
BONANZO ENGG. & CHEMICALS P.LT Petitioner
Through None.
versus
M.C.D. & ORS. Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 753/2007 & C.M. No.1412/2007
NAVEEN JAIN & ANR Petitioner
Through None.
versus
MCD & ORS. Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 754/2007 & C.M. No.1414/2007
JAGDISH MALHOTRA & ANR Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1191/2007 & C.M. No.2117/2007
DILIP SINGH GHOLCHA Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1396/2007 & C.M. No.2556/2007
DHANI RAM MITTAL Petitioner
Through None.
versus
M.C.D. & ORS. Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.

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- + W.P.(C) 1647/2007 & C.M. Nos.3028/2007 & 16429/2013
K.L.J.RESOURCES LTD. & ORS. Petitioners
Through Mr. Kuljeet Rawal, Adv.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1649/2007 & C.M. No.3032/2007
DEPENDABLE CONSUMER GOODS P.LT Petitioner
Through Mr. Kuljeet Rawal, Adv.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1650/2007 & C.M. No.3034/2007
SUMERMAL PATAWARI TRUST Petitioner
Through Mr. Kuljeet Rawal, Adv.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1651/2007 & C.M. No.3036/2007
ASHULOK TRADERS P. LTD. & ORS. Petitioners
Through Mr. Kuljeet Rawal, Adv.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 1716/2007
D.D.INDUSTRIES LTD Petitioner
Through None.
versus
M.C.D & ORS Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.

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- + W.P.(C) 2995/2007 & C.M. No.5607/2007
HARBHAJAN BARHA & ANR Petitioners
Through None.
versus
MCD Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4128/2007 & C.M.Nos.7776/2007, 10826/2007 & 2814/2008
NAJAFGARH ROAD INDUSTRIES ASSO Petitioner
Through Ms. Nandni Sahni, Adv.
versus
M.C.D. Respondent
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4365/2007 & C.M. No.8184/2007
AMARNATH PASRICHA Petitioner
Through None.
versus
MCD & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4482/2007 & C.M. Nos.8384/2007, 3571/2008 & 1793/2009
ARZOO INDUSTRIES Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr. Mukesh Gupta, Standing Counsel
with Mr. Chetan Gautam, Adv for
MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4483/2007 & C.M. Nos.8386/2007 & 3572/2008
MEGHA ENTERPRISES Petitioner
Through None.
versus

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|---|-------------------|--|
| M.C.D. & ORS. | Through | Respondents
Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA. |
| + W.P.(C) 4485/2007 & C.M. Nos.8389/2007 & 3579/2008
R.K.CHEMICAL WORKS | Through
versus | Petitioner
None. |
| M.C.D. & ORS. | Through | Respondents
Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA. |
| + W.P.(C) 4486/2007 & C.M. Nos.8391/2007 & 3570/2008
UNI PLAST IND. | Through
versus | Petitioner
None. |
| M.C.D. & ORS. | Through | Respondents
Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA. |
| + W.P.(C) 4487/2007 & C.M. Nos.8393/2007 & 3575/2008
KONICA INDUSTRIES | Through
versus | Petitioner
None. |
| M.C.D. & ORS. | Through | Respondents
Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA. |
| + W.P.(C) 4488/2007 & C.M. Nos.8395/2007 & 3573/2008
ABBA INDUSTRIES | Through
versus | Petitioner
None. |
| M.C.D. & ORS. | Through | Respondents
Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA. |
| + W.P.(C) 4490/2007 & C.M. Nos.8399/2007 & 3577/2008
JUPITOR ELECTRICALS | Through | Petitioner
None. |

- versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4491/2007 & C.M. Nos.8401/2007 & 3574/2008
JAIN STEEL Petitioner
Through None.
versus
M.C.D.& ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4492/2007 & C.M. Nos.8403/2007 & 3576/2008
JAIN GENERAL Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4495/2007 & C.M. Nos.8408/2007, 8409/2007 & 3570/2008
RELIABLE PRINTING INK CO. Petitioner
Through None.
versus
M.C.D. & ORS. Respondents
Through Mr.Ajay Aroraa, Advocate for MCD.
Mr.Ajay Verma, Advocate for DDA.
- + W.P.(C) 4498/2007 & C.M. Nos.8414/2007, 3578/2008, 1794/2009 &
7943/2010
MALHOTRA ENTERPRISES Petitioner
Through None.
versus
M.C.D.& ORS. Respondents

Through Mr. Mukesh Gupta, Standing Counsel
with Mr. Chetan Gautam, Adv for
MCD.
Mr. Ajay Verma, Advocate for DDA.
+ W.P.(C) 6973/2007 & C.M. No.13229/2007
SAEEDA KHATOON SIDDIQUI & ORS Petitioners
Through Ms. Nandni Sahni, Adv.
versus
MCD Respondent
Through Mr. Ajay Arora, Advocate for MCD.
Mr. Ajay Verma, Advocate for DDA.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J. (oral)

1 Vide this common judgment, the aforementioned bunch of writ petitions shall be disposed of.

2 The petitioners before this Court are all property holders of plots at Rama Road, Najafgarh Road Industrial Area, New Delhi. There is no dispute that Rama Road in West Delhi was conceived as an "industrial area" for extensive industries with large industrial plots. It is also not in dispute that each of these plots were sub-divided into several plots. The case of the petitioner is that their building plans were purportedly sanctioned by the Corporation i.e. erstwhile Municipal Corporation of Delhi (now represented by the North Delhi Municipal Corporation). Their revised building plans were also approved and sanctioned. Property tax had been deposited by

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them. Individual petitioners had purchased their individual plots from the erstwhile owners. Since these industrial plots were large in size (in some case being more than 10 acres and above), the plots had been sub-divided and individual registered sale deeds had been entered into between the individual petitioners and the erstwhile owners. Property tax and house tax were also being paid by the petitioners. Conveyance deeds had also been executed by the DDA in favour of the petitioners for conversion of the leasehold rights in these properties into free-hold. The petitioners had carried out their respective constructions in their respective properties. Electricity connections were obtained. The petitioners were carrying on their commercial activities from the aforementioned industrial plots. In the year 2006, certain demolitions were carried out by the respondent Corporation for alleged illegal mis-user. These writ petitions were accordingly filed.

3 In the counter affidavit, the respondent Corporation had taken an objection that the policy of the Department does not permit them to sub-divide a plot and the sub-divided status of an original plot cannot be granted any recognition by the Corporation.

4 On 04.09.2006, the Court had noted that the respondent MCD shall carry out the direction of the Monitoring Committee and it was on the

recommendations of the Monitoring Committee that the proposed action had been taken against the properties of the petitioners. The Single Judge of this Court had directed the matter to be listed along with the connected petition i.e. W.P. (C) No.4589/2003 Kalyan Sanstha Matter to be listed before the Division Bench. Till that time, status quo was directed to be maintained.

5 The petitioners before the Division Bench had undertaken that all illegal deviations/constructions would be demolished by themselves voluntarily. This monitoring continued before the Division Bench.

6 The Division Bench had disposed of this writ petition on 01.04.2008. Both Members of the Division Bench had returned different findings. Provisions of Clause 7.6.1 of MPD-2021 was the subject matter of discussion. Clause 7.6.1 reads herein as under:-

"7.6.1 Existing Planned Industrial Areas.

These industrialized areas were developed in the 70's and over the years, have deteriorated considerable in terms of physical infrastructure and, in some cases deficiencies on this score have persisted in an overall sense. Besides, there have been changes in the nature of activities in some of the areas and there have also been demands for using part of the plots for activities, which could be classified as commercial. There may also be a need to see whether further densification is possible in terms of creating

smaller plots by sub-divisions to accommodate a larger number of industries/units. Guidelines for redevelopment of existing industrial areas shall be framed within 2 years by DDA in consultation with GNCTD and the local body. Till such time, the existing sub divisions may continue.

There is, therefore, a need for modernization and up-gradation of the existing industrial areas with due regard to environmental considerations. Since most of the Industrial areas are located along the Mass Public Transport Corridors, there is also a need for optimizing the use around these areas through the process of redevelopment.

This process of upgradation and redevelopment will need to be carried out in a planned manner, and in a public-private partnership framework, in which the entrepreneurs contribute to the betterment and subsequent maintenance through suitable Operation and Maintenance arrangements."

7 The moot question i.e. till what time "the existing sub-divisions may continue" was to be answered.

8 The Court of Hon'ble Ms. Justice Rekha Sharma held that sub-divisions are permissible but was of the opinion that the petitioners were not entitled to a de-sealing of their units as the constructions raised by them were illegal and unauthorized.

9 The Court of Hon'ble Mr. Justice A.K. Sikri (as his Lordship then was) was of the view that since guidelines for redevelopment of existing

industrial units are yet to be formulated by the policy makers and these commercial establishments were operating for a number of years, the occupiers should be given a respite and had put a moratorium against any coercive action; it was of the view that the properties of the petitioners should be protected and had accordingly granted a status quo to them accordingly; he had permitted the de-sealing of their properties subject to certain conditions.

10 In view of these different opinions given by the two Judges, matter was referred to a third Judge. The matter has now come been marked to this Court.

11 In the course of these hearings, learned counsel for the respondent/DDA had taken time to appraise this Court about the Rules and Regulations which have been formulated after the promulgation of MPD-2021. The petitioners had also sought time for the same purpose.

12 Today, this Court has been informed that the Delhi Development Authority vide its Notification dated 01.04.2011 has notified certain guidelines i.e. "Regulations and Guidelines for Redevelopment of Existing Planned Industrial Area" (hereinafter referred to as the Regulations). It is

not in dispute that these Regulations would be applicable to the properties of the petitioners.

13 Clause 2.3 of these Regulations is relevant. It reads herein as under:-

"Redevelopment of Existing Planned Industrial Areas through sub-division of plots.

Master Plan-2021 also realizes that the existence of smaller plots by sub-dividing the larger plots and has recommended to prepare guidelines for regularization of such sub-divisions. Accordingly, the owners of sub-divided plots shall collectively prepare and submit the Layout plan to Local Body for approval along with the required mandatory documents as per BBL/to the satisfaction of the Local Body."

14 These Regulations thus recognize the existence of smaller plots by sub-division from the larger plots. The owners of the sub-divided plots have been directed to collectively prepare and submit a layout plan to the local body along with the required mandatory documents to the satisfaction of the local body. The local body in this case is the North Delhi Municipal Corporation. After the approval of layout plan by the local body, the sanction of the building plan on individual plots would be governed by MPD-2021 development control norms given in the Guidelines/Regulations.

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15 In view of formulation of these Regulations, learned counsel for the petitioners submits that they would seek permission of this Court to withdraw their petitions with liberty granted to them to approach the local body. They are permitted to do so.

16 These petitions are accordingly disposed of with liberty granted to the petitioners to permit the co-owners of sub-divided plots to collectively prepare and submit their layout plan to North Delhi Municipal Corporation for approval. This would be along with all the mandatory documents which would be to the satisfaction of the local body. A period of three months is granted for the said purpose. This is in view of the submission of the petitioners that in some cases there are several co-owners of one plot and to collate the documents it would be a cumbersome process for which sometime would be required.

17 It is made clear that all co-owners of one plot will make this collective application to the local body.

18 The applications of the petitioners will be considered in accordance with law and approval of the layout plan will be answered by the local body in accordance with law. The sanction of the building plan on the individual plots will, thereafter be governed by MPD-2021 development control norms.

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19 After an order has been passed by the local body, no coercive action shall be taken against the properties of the petitioners till the next three months and this period of three months be counted from the date of communication of this order to the petitioners (which may be by registered A.D. post, courier or any mode of accepted service). Needless to state that if the petitioners are aggrieved by the action of the respondent, they may take steps in accordance with law. This order is passed without prejudice to the respective rights and contentions of the parties.

20 Petitions disposed of in the above terms.

INDERMEET KAUR, J

FEBRUARY 06, 2017

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