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

Decided on: 07.12.2015

+ LPA 844/2015 and CM No. 28039/2015

ROHINI RESIDENTIAL SCHEME 1981 ASSOCIATION

..... Appellant

Through: Dr. Amitabha Sen, Ms Getanjali
Sethi and Ms Garima Yadav and Ms Aditi
Pandey, Advs.

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr Dhanush Relan, Standing
Counsel, DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. The appellant claims to be aggrieved by an order dated 11.09.2015 made by the learned Single Judge issuing restricted notice in W.P.(C) No.8525/2015. They approached the Court claiming various reliefs, one of which was that the plot size could not have been reduced by the Delhi Development Authority (DDA)—the respondent in these proceedings.

2. All the appellants had registered in the Rohini Residential Scheme, 1981 and are allottees under the Scheme, which, has not yet completed handing over the possession.

3. The learned Single Judge in the impugned order issued restricted notice declining the relief in respect of the plot reduction. In doing so, the learned Single Judge was influenced by the previous judgment of this Court in ***Major General Pradeep Kumar Mahajan vs. Delhi Development Authority & Ors.*** 2005 (80) DRJ 699.

4. Counsel for the appellant strenuously urged that the learned Single Judge fell into error in issuing this restricted notice as the grievance of the appellant is with respect to the plot reduction. It was emphasized that there was a change in the circumstances after the judgment in ***Major General Pradeep Kumar Mahajan (supra)*** was rendered. To say so, learned counsel relied upon the reply to a query under the RTI application given by the DDA on 09.09.2008. That reply had been filed as Annexure P-13 and part of the appellate record. In the reply, DDA has stated that 4680 hectares of land was taken over by the DDA from the Land & Acquisition Department for the development of the Rohini Residential Scheme till date. It was also reported that 70.76 acres of land was under encroachment in various litigations. The record further has placed on the file of the Court several copies of correspondence between DDA and the Central Government. The matter was again gone into by a Division Bench of this Court in ***W.P.(C) No. 8765/2009 (Rahul Gupta vs. DDA and Anr.)*** where the Court monitored the various facets of the scheme and status reports were filed. Eventually, on 14.03.2012, the Court had issued directions with respect to the allotment of developed plots and also in respect of the development of the entire area and its vicinity. Even this was the subject matter of ***SLP No. 16385-16388/2012***

(Rahul Gupta vs. Delhi Development Authority), which was disposed of on 10.03.2015. The Court had indicated time-schedule within which the developments had to be completed and further ensured that no Court would entertain any application for grant of interim directions with reference to the allotment and execution of work. Further directions were made in the matter.

5. The DDA, on its part, urges that even though plots were reduced and the matter attained finality, the question of its being asked to increase the plot size in view of what in the petitioner's perception constitutes later development does not arise. It is pointed out that the reply to the RTI query merely states the total extent of land handed over to the DDA and that it cannot be assumed that these lands were made only for the residential scheme of which the appellants are allottees or that they were not taken into account in all the pending proceedings before this Court. It was further alleged that with the enactment of the Land Acquisition Rehabilitation and Resettlement Act, 2013, a large extent of land has been de-notified by operation of Section 24(2); it is rendering the entire process of assessment of lands available to the DDA. It is submitted that in these circumstances keeping in mind the petitioner's limited right having regard to the decision in *Major General Pradeep Kumar Mahajan (supra)*, the appeal should not be entertained.

6. This Court has considered the submissions of the parties. *Major General Pradeep Kumar Mahajan (supra)* is a final decision which declares that an allottee does not have a right to a particular size in a plot at the stage it was offered. At the very most, there was an

indicative range. At the stage when learned Single decided the ***Major General Pradeep Kumar Mahajan*** (*supra*), the initial plot reduction had taken place. The solitary reply to an RTI query made in 2008, in this Court's assessment, cannot constitute a re-assessment evaluation of the entire availability of the land all over again seven years after the information was initially supplied; the issue acquires greater importance and more acuteness given that all the facts and issues appear to have been considered in ***Rahul Gupta*** (*supra*) where a spate of orders were made in the development of the locality taking into consideration both plots and flats. In fact, the Supreme Court is seized of the matter. Given these considerations and constraints, the learned Single Judge's decision to issue restricted notice cannot be faulted.

The appeal is therefore unmerited and the same is accordingly dismissed.

S. RAVINDRA BHAT
(JUDGE)

DEEPA SHARMA
(JUDGE)

DECEMBER 07, 2015
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