

\$~ 30

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

+ **W.P.(C) 1484/2015**

CHANDRA PRABHU MARKETING PVT. LTD. AND ORS.

..... Petitioners

Through: Mr. Jasmeet Singh, Adv.

versus

LT. GOVERNOR & ORS.

..... Respondents

Through: Mr. Gautam Narayan, ASC, GNCTD

with Ms. Shruthi Parasa, Adv. for R-1 and 3

Ms. Isha Garg, Adv. for Mr. Dhanesh Relan, Adv.
for DDA

Mr. Lalit Gupta with Ms. Garima Goel, Adv., Mr.

Gaurav Lavania, Adv. and Mr. Gyan Vaish,

President of Applicant/Paper Merchants

Association

%

Date of Decision : 27th September, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No.34215/2016

After some arguments, learned counsel for the petitioners wishes to withdraw the present application with liberty to file appropriate proceedings in accordance with law.

With the aforesaid liberty, present application is dismissed as withdrawn. The rights and contentions of all the parties are left open.

W.P.(C) 1484/2015 & CM Appls. 31310/2015 & 9933/2016

1. By way of the present writ petition, the petitioners seek a declaration that the cut-off date to issue alternative plots to paper traders is illegal, arbitrary, discriminatory and violative of the policy/notification dated 15th March, 2000. The petitioners seek the cut-off date as 31st March, 2007 instead of 15th March, 2000.
2. Learned counsel for the petitioners states that as 350 plots are vacant at Ghazipur as of today and 300 odd paper merchants are still operating from Old Delhi, the cut-off date should be extended to 31st March, 2007.
3. Mr. Gautam Narayan, learned additional standing counsel for the GNCTD states that vide notification 15th March, 2000, a Committee was constituted for shifting of paper market from the Walled City. The terms of reference of the Committee inter alia was to carry out a comprehensive survey of the dealers/traders/manufacturers of paper located in the Walled city and to finalise eligibility criteria, principles for identifying those who would be entitled to space in the new complex being developed by respondent No. 2.
4. Mr. Narayan states that the decision was taken by the Committee to fix the cut-off date as 15th March, 2000 which was approved by the Lieutenant Governor.
5. Mr. Narayan submits that the said cut-off date was unsuccessfully challenged by Vipul Overseas Pvt. Ltd. by way of a writ petition being WP(C) 8215/2010.

6. Mr. Narayan also extensively relies upon the letter dated 27th February, 2002 written by the Deputy Commissioner (Central) to the Director (Commercial Land), DDA. The relevant portion of the said letter is reproduced hereinbelow:-

“Please refer to your letter No.F.110(152)/2K/CL/96 dated 28.1.2002. We have scrutinized the Survey sheet alongwith the supporting documents furnished by 842 Paper Merchants. Keeping in mind the deliberations held in vrious meetings, only those who are located in Walled City, Sadar Bazar and Paharganj are to be considered to be shifted in the first lot and if the plots are available, units functioning in rest of Delhi can also be considered for shifting to consolidate the Paper Market in one place. A scrutiny of the survey sheets reveals that out of 842 dealers who have furnished the survey sheets alongwith supporting documents, only 682 are located in Walled City, Sadar Bazar and Paharganj and are eligible for shifting in the first phase. 160 applicants are located clearly outside this area. It has also been found that some of the applicants do not have supporting documents regarding their functioning on the sites as mentioned in the survey sheet. A list of 18 such dealers have been located and is annexed separately. These 18 persons have to be asked either for supporting documents or their occupancy at the present site should be verified.

It is reiterated that the survey sheets were obtained and collected when the scheme was in the preliminary stage and the fate of the scheme was not known but now with the passage of time when the thinking has crystallized and the site has been identified alongwith Layout of plan many more in the Walled City, Sadar Bazar and congested area of Paharganj will come forward and apply for alternative plot. It has been gathered that total number of Paper Merchants located in Walled City, Sadar Bazar and Paharganj would be in between 1000 and 1100. After finalisation of the scheme and costing, it will be proper that open advertisement should be given to invite applications from the Paper Merchants operating this area.”

(emphasis supplied)

7. Having heard learned counsel for the parties, this Court is of the opinion that it is neither for the petitioner nor for the Court to fix the cut-off date. Moreover, the issue of re-fixing the cut-off date is no longer res integra in view of the judgment and order dated 06th April, 2011 passed in WP(C) 8215/2010. The relevant portion of the judgment dated 06th April, 2011 passed in WP(C) 8215/2010 is reproduced hereinbelow:-

“1. The Petitioner, seeks allotment of an alternative plot in the Integrated Freight Complex at Gazipur on the basis that it was operating as a paper merchant in the Walled City. The Petitioner has its registered office at Rajendra Place, New Delhi. It has a sales tax registration for the business in all kinds of paper and boards. It is stated that the Petitioner opened a sales office at 2393/2, Vidya Market, Chatta Shahji, Chawri Bazar, Delhi-110006 with effect from 1st April 2002. An application was filed by the Petitioner on 15th April 2002 with the Sales Tax Department to endorse the additional sales office on the sales tax registration certificate. A copy of the endorsement made on 24th April 2007 is at page No. 136 of the paper book. It records that the Petitioner has a sales office at Vidya Market with effect from 1st April 2002.

2. Learned counsel for the Petitioner submits that the Petitioner became a member of the Paper Merchants Association and was issued a certificate to that effect in 2000. It is submitted that although the Petitioner was operating its sales office in Vidya Market even earlier than 15th April 2002. However, there is no document placed on record to substantiate this plea.

xxx

xxx

xxx

4. The Petitioner did not have the sales office in the Walled City prior to 1st April 2002. As rightly pointed out by learned counsel for Respondent No. 2, the Board Resolution of the Petitioner passed at a meeting held on 28th March 2002 records that ?the company requires to open sales office at 2393/2, Vidya Market, Chatta Shahji, Chawri Bazar, Delhi-110006.? Consequently, the claim of the Petitioner No. 2 that it was operating from the said address a sales office even prior

to the said date cannot be accepted. The Petitioner having been operating in the Walled City the sales office only with effect from 1st April 2002, cannot claim the benefit of the relocation scheme, under which the paper merchants operating in the Walled City are to be given alternative plots.

5. Counsel for the Petitioner also seeks to place reliance on a public notice issued by the DDA on 15th May 2006 calling upon the left over eligible paper merchants to further submit applications and asking them to submit sales tax assessment for the year 2002-03, 2003-04 and 2004-05. It is however clarified by the learned counsel for the DDA that the said notice was only meant for those paper merchants whose eligibility had already been determined and whose names had not been included in the draw of lots.

6. In the considered view of this Court a paper merchant who moved into the Walled City after the announcement of the relocation scheme, like the Petitioner, will not be eligible for allotment of an alternative plot. The relocation scheme was meant to benefit those paper merchants who were operating in the Walled City for a long time."

(emphasis supplied)

8. The said judgment has attained finality.

9. From the letter dated 27th February, 2002 of Deputy Commissioner (Central) addressed to the Director (Commercial Land) DDA, it is apparent that after shifting the paper traders located in the Walled City, the units functioning in the rest of Delhi were also to be considered for shifting to consolidate the paper market in one place.

10. The shifting of paper merchants from other localities is also a material and relevant consideration and the same cannot be disregarded by the Court. Consequently, the plea for shifting of the cut-off date is untenable in law and contrary to facts.

11. Accordingly, the present writ petition and pending applications are dismissed. Interim orders also stand vacated.

12. However, this Court may mention that while hearing the present writ petition, it transpired that multiple allotments had been made to concerns/companies which are owned and managed by the same promoter and operating from the same premises.

13. As a consequence, certain individuals/entities have received possession of more land than was initially in their possession and control in the Walled City.

14. Consequently, this Court is of the view that under a welfare scheme, the Government land has been appropriated by way of multiple allotments in the name of different entities even though they were operating from the same premises.

15. The said aspect is directed to be considered by the land owning agency/joint committee comprising GNCTD, DDA and the Paper Merchant Association within twelve weeks. Respondents are directed to file an action taken report in the present case within a period of fifteen weeks.

Order dasti.

MANMOHAN, J

SEPTEMBER 27, 2016
NG