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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1693/2016 & C.M.No.7252/2016

NARINDER KUMAR SHARMA AND ORS

..... Petitioners

Through

Mr.Sumit Bansal with Ms.Suni
Anand, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through

Mr.Rakesh Mittal with Mr.Kamlesh
Anand, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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05.09.2016

1. Present writ petition has been filed with the following prayers:-

- a. *issue a writ, order or direction in the nature of a writ of mandamus thereby directing the respondent authority to remove the unauthorized encroachment from Plot bearing No.B-94, Okhla Industrial Area, Phase-I, New Delhi;*
- b. *issue a writ, order or direction in the nature of a writ of mandamus thereby directing the respondent authority to hand over possession of Plot bearing No.B-94, Okhla Industrial Area, Phase-I, New Delhi to the petitioners;*
- c. *in the alternative issue a writ, order or direction in the nature of a writ of mandamus thereby directing the respondent authority to allot similarly situated plot as Plot bearing No.B-94, Okhla Industrial Area, Phase-I, New Delhi to the petitioners in lieu of plot bearing No.B-94, Okhla Industrial Area, Phase-I, New Delhi;*

d. pass such other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2. Admittedly the industrial plot allotted to the petitioner is encroached upon by the *jhuggi jhopri* dwellers.
3. Learned counsel for the petitioners states that the petitioners are the successful allottees of an industrial plot bearing no.B-94, Okhla Industrial Area, Phase-I, New Delhi. He states that either the petitioners be given peaceful vacant possession of the aforesaid plot or any other alternative plot.
4. DDA in its counter-affidavit has stated that an 'awkward law and order situation may arise' in case the plot initially allotted to the petitioners is tried to be vacated forcefully since the encroachment on the land has been in existence prior to the year 1996 and the said encroachment is protected under the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014.
5. It is also stated in the counter-affidavit that Plot No.1/92A Block-I, Kirti Nagar as well as Plot No.B-264, Mangolpuri Industrial Area are unallotted and vacant.
6. In the opinion of this Court, as the petitioners are the successful allottees of an industrial plot and have paid the entire consideration, they are entitled to possession of an industrial plot admeasuring 400 sq. yds. Since DDA has expressed its inability in removing the encroachment on plot no.B-94, Okhla Industrial Area, Phase-I, New Delhi which had been initially allotted to the petitioners, the respondent/DDA is directed to allot either Plot No.1/92A Block-I, Kirti Nagar or Plot No.B-264, Mangolpuri Industrial Area, which are stated to be admeasuring 400 sq. yds. and are vacant within a period of eight weeks. In the event, there is any difference in the price of

the plot, the petitioners shall either be asked to pay the balance amount or in case the amount is overpaid, the same shall be refunded to the petitioners.

7. With the aforesaid observations and directions, present writ petition and the application stand disposed of.

MANMOHAN, J

SEPTEMBER 05, 2016
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