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

+ W.P.(C) 8224/2015

PARAS RAM & ORS

..... Petitioners

Through: Mr Avinash Trivedi, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR

..... Respondents

Through: Mr Sachin Nahar, Advocate for  
SHO/GNCTD.

Mr Parvinder Chauhan, Standing  
counsel with Mr Nitin Jain, Advocate  
for DUSIB.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **23.11.2017**

1. The petitioners have filed the present petition, *inter alia*, praying that the respondents be directed to handover the possession of the flats allotted to them after completing construction within a reasonable period.

2. Briefly stated, the relevant facts are as under:

2.1 The petitioners are dwellers of *Jhuggi Jhopri* Cluster (hereafter 'JJ Cluster') located near N-43, Park Side, Badli Industrial Area, Delhi. The said area is under control and management of Delhi State Industrial And Infrastructure Development Corporation (hereafter 'DSIIDC'). In order to remove the aforesaid JJ Cluster, a survey was conducted in the year 2007 by the officers of MCD Slum and JJ Department (since merged with respondent no.2 – hereafter 'DUSIB'). The said survey was conducted for the purpose

of relocating the slum dwellers including the petitioners.

2.2 Admittedly, the petitioners were found eligible for relocation. Since no further steps were taken, petitioner no.2 along with certain other slum developers filed a Writ Petition - W.P.(C) 1717/2012 - in this Court, which was disposed of on 04.02.2014. In the meanwhile, allotment letters for flats were issued to the petitioners. The petitioners have also deposited their share of contribution for allotment of the said flats.

2.3 The grievance of the petitioners is that despite making payment of their respective share of contribution and despite flats having been constructed by DUSIB and allotted in their favour, possession of the said flats has not been handed over to them.

2.4 Learned counsel for the DUSIB does not dispute any of the averments made by the petitioners in the petition except to state that the letters termed as 'allotment letters' are in fact eligibility letters and not allotment letters as contended by the petitioners. He states that the said letters do not confer any right with the petitioners for being granted possession of the flats in question. It is further pointed out that the land owning agency, namely DSIIDC, has not paid its share of contribution as yet. Furthermore, since a survey was conducted way back in the year 2007, it was felt that the entire Cluster could not be removed by merely providing relocation to those who found eligible pursuant to the said survey. It is also contended that a new policy is being framed and further removal of JJ clusters would be as per the said policy.

2.5 The learned counsel for DUSIB submits that possibly another survey would be required and further steps would have to be taken for relocation of

other slum dwellers as well for the JJ Cluster to be removed. He states that in these circumstances, for the time being, no further steps for removal of the JJ Cluster are being taken, however, as and when such steps are contemplated, the eligible slum dwellers would be relocated as per the prevalent policy.

3. There is much merit in the contentions advanced on behalf of DUSIB. The entire purpose of conducting a survey and allotting accommodation to slum dwellers is to ensure that the JJ cluster is removed and the land is made available for further development. In the present case, DUSIB has expressed its difficulty in immediately implementing the removal of the JJ Cluster. In this view, the allotment of flats to the petitioners would not serve the intended purpose as DUSIB would not be able to remove the JJ Cluster in question. The petitioners have no right to demand allotment of flats; the petitioners are in unauthorised occupation of land and were being relocated as a welfare measure intended to remove the slum in question.

4. The learned counsel for DUSIB also stated, on instructions, that DUSIB would be willing to refund the amount collected from the petitioners. However, the petitioners are not interested in seeking refund of their contributions at this stage and are interested in allotment of the flats.

5. In these circumstances, the present petition is disposed of by directing that as and when DUSIB undertakes the exercise of relocation of slum dwellers, it would also include the petitioners without calling upon them to pay additional sum based on the then prevalent rates. In other words, since the petitioners have paid the amount demanded from them, they ought to be granted benefit of the prices prevalent at the time of depositing their

contribution and it would not be apposite to charge any escalation from them.

6. The petitioners' prayer that immediate possession of the flats be handed over cannot be granted, as allotment of flats would not serve the intended purpose of removal of the JJ Cluster. It is also relevant to mention that as per the terms of the present policy, the petitioners cannot be removed from the JJ Cluster without being relocated.

7. It is also clarified that if at a later stage the petitioners elect to seek refund of the amount paid by them, they would be at liberty to apply.

**VIBHU BAKHRU, J**

**NOVEMBER 23, 2017**  
**MK**