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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 626/2017, CM APPL.34523-34524/2017

**NIGAM COLONY DHAKA QUARTERS KARAMCHARI PARISHAD
(REGD)**

..... Appellant

Through: Mr. S.S. Tomar, Advocate.

versus

**THE COMMISSIONER NORTH DELHI MUNICIPAL CORPORATION
& ORS**

..... Respondents

Through: Ms. Mini Pushkarna, Standing Counsel for
North DMC with Ms. Anushruti and Ms. Vasundhara
Nayyar, Advocates.

Mr. Anil Panwar, Advocate for R-3 with Mr. Neetish
Pandey, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

20.09.2017

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The appellant is aggrieved by the order of the learned Single Judge dated 22.09.2016 who has declined to interfere with the decision of the North Delhi Municipal Corporation (hereafter referred to as "Corporation") for allotment and construction of multi storey residential flats in lands in its possession. The appellant/writ petitioner had contended that the impugned Resolution dated 05.08.2015 was contrary to and in violation of the Lower Income Group Scheme formulated by the Corporation dated 27.04.1955.

The facts are that on 27.04.1955, a scheme to develop a lower income group housing project to house the class-III and IV employees at Nimri Colony was adopted. Subsequently, those allotted quarters during the tenure of their employment were permitted to occupy them on

ownership basis by virtue of another Resolution. The petitioners who too are employees of the Corporation claimed parity contending that they were entitled for ownership rights and at least undisturbed possession and occupancy rights. The petitioners reside in the colony - Nigam Colony Dhaka Quarters at another location - away from the Nimri Colony. The petitioners contended that the current proposal of the Corporation evidenced by Resolution No.121 dated 05.08.2015 is contrary to the spirit and letter of the previous Scheme adopted in 1955. It was argued before the Single Judge that the idea of transferring Union's funds to the Corporation to develop lands was to ensure that employees of the Corporation and local bodies were not only housed during the tenure of the employment but also given permanent housing accommodation.

The learned Single Judge noticed that an identical demand for permanent housing through transfer of ownership had been made but declined by the Supreme Court in its judgment in *Nigam Colony Dhakka Quarters Karamchari Parishad (Regd.) v. Municipal Corporation of Delhi & Others* (SLP (Civil) No.17454 of 2000), decided on 20.11.2000. Learned Single Judge also noticed that the impugned proposal did not envision conversion of the plot from residential use to any other use and further directed that allottees in the Nigam Colony Dhaka Quarters, if displaced, would be provided alternative residential accommodation.

Learned counsel urged that the Single Judge fell into error for being unduly influenced by the order of the Supreme Court. It was pointed that the Supreme Court left the choice of disposal of flats, once developed to the Corporation and did not mandate that every such flat constructed by the Corporation should necessarily be sold. In other words, the choice of disposing of the newly developed flats either through allotment or through

sale to the public is that of the Corporation; therefore, the Single Judge fell into error in holding that there was no obligation on the part of the Corporation to consider whether to allot the newly constructed flats to its employees eventually on permanent basis.

A plain reading of Resolution No.121 (dated 05.08.2015) impugned in the present case would show that the Corporation was alive to the fact that existing employees resided in its quarters. The Court notices that the final approved proposal does not envision conversion of the land from residential to commercial. It proposes to develop 31,525 sq. mtrs. of the available space into multi storied housing complex, for residential purposes. The discretion thus was exercised by the Corporation to develop a multi storied housing complex and thereafter dispose it of in accordance with its policies. As far as the obligation to house its employees is concerned, the Single Judge, we note, had recorded the Corporation's statement that it would adhere to its stand in letter and spirit and that its serving employees, if displaced, would be given alternative accommodation. Therefore, in terms of assurance to the existing employees or at least those who are housed in the Nigam Colony Dhaka Quarters, there is an assurance which is binding and enforceable.

In these circumstances, this Court is of the opinion that the refusal to issue direction of the kind and nature sought from this Court, by the Single Judge cannot be termed unreasonable or erroneous. The appeal is, therefore, dismissed, along with pending applications.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 20, 2017/vikas/
LPA 626/2017

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