$~

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

***Date of decision: 12th December, 2018***

\+ W.P.(C) 4738/2011 & CM APPL. 14208/2016 (*for directions*)

SUSHEELA SIKKA & ANR ..... Petitioners
Through: Mr. R.K.Saini, Adv. with Mr.Sudhanshu Sikka and Mr. Harpawan Kumar Arora, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.. Respondents
Through: Ms. Shobhana Takiar, Adv. for DDA

**CORAM:**
**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**O R D E R (ORAL)**

**% 12.12.2018**

**1.** This writ petition is directed against a communication dated 11th May, 2011, issued to the petitioner, by the Delhi Development Authority (DDA).

**2.** The Petitioner No.1 had been allotted a plot of land, under the Rohini Residential Scheme, on 10th November, 1997. On the ground that she had concealed the fact regarding allotment of another flat, i.e. Flat No.122, Pocket C-8, Sector-8, Rohini, to her husband Mr.Chander Bhushan Sikka, by the DDA, she was issued a show cause notice, for cancellation of the allotment of the flat to her, which was followed by the impugned communication dated 11th May, 2011, cancelling the said allotment.

**3.** The said cancellation had been effected in accordance with terms and conditions of the Rohini Residential Scheme which, in turn, was in accordance with Rule 17 of the DDA (Disposal of Developed Nazul Land) Rules, 1981 (hereinafter referred to as "Nazul Rules"), which read thus:.

> "General restriction on allotment for residential purpose notwithstanding anything contained in these rules, no plot of Nazul land shall be allotted for residential purpose to an individual other than an individual referred to in Clause (i) of Rules i.e. who or whose wife or husband or any of his or her dependent children, whether minor or not, or any of his or her dependent parents or dependent minor brothers or sisters, ordinarily residing with said individual own, in full or in part on lease hold or free hold basis, any residential land or house or who has been allotted on hire purchase basis, any residential land or house in Union Territory of Delhi:
>
> Provided that whether on the date of allotment of Nazul land,
>
> a. the other land owned by or allotted to said individual is less than 67 sq. mt.; or
>
> b. the house owned by said individual is on a plot of land which measures less than 67sq. mt.; or
>
> c. share of said individual in any other land or house measures less than 67 sq.m.
>
> He may be allotted a plot of Nazul land in accordance with the other provisions of these rules."

**4.** Ms. Shobhana Takiar, learned counsel for the respondent submits that the Ministry of Housing and Urban Affairs (Delhi Division) has, now, issued Office Memorandum No.K-20014/01/2018. DD.III, dated 15th November, 2018, which reads thus:

"No.K-20014/01/2018

Government of India
Ministry of Housing and Urban Affairs
(Delhi Division)

Nirman Bhawan, New Delhi

Date: 15.11.2018

Office Memorandum

Subject: Allotment of plots to persons after the 5 years of closure of scheme Regarding relaxation under rule 45(2) (b) of DDA (Disposal of Development Nazul Land) Rule, 1981)

The undersigned is directed to refer to DDA's letter No. PS/Dir.(RL) 2018/DDA/130 dated 14.09.2018 on the subject cited above, seeking approval of the Ministry of relaxation in the eligibility criteria in respect of Rohini Residential Scheme01981.

2. DDA had sent the proposed approved by the Authority in meeting of Authority dated 20th November, 2017 as item No.52 for relaxation in eligibility criteria in respect of Rohini Residential Scheme.

3. DDA launched Rohini Residential Scheme on 9.02.1981 with terms and conditions. The scheme and terms and conditions of scheme were finalized and approved by DDA. Rohini Residential Scheme, 1981 was closed on 254.04.1981. The allotment of plots were to be made in phases spread over a period of five years.

4. DDA has further informed that as per the scheme the allotment of plot were to be made in phases spread over a period of 5 years from the last date of receipt of applications for Rohini Residential Scheme, 1981. However, due to variety of reasons the said time frame could not be adhered to. The DDA proposal relates to allotment of residential plots to registrants of Rohini Residential Scheme, 1981, who have purchased plots of land after five years of closure of the Rohini Residential Scheme i.e. 25.04.1986 onwards and are ineligible as per Nazul Rules.

5. DDA (Disposal of Developed Nazul Land) Rules, 1981 were notified and came into effect from 26.09.1981 which provides for disposal of land, etc.

6. DDA has sought the approval of Central Government only for relaxation in provisions of Rule 17 to the extent that the provision of Nazul Rule will not be applicable w.e.f. 25.04.1986 and onwards in respect of registrants of Rohini Residential Scheme, 1981.

7. Central Government has considered the proposal of DDA and in view of the special circumstances in the instant case of inordinate delay in delivery of properties under the aforesaid scheme by DDA and has agreed to the request of DDA to relax provisions of Rule 17 of Nazul Rule as per provision of section 45(2) (b) of Nazul Rules. The relaxation is available only to the registrants of Rohini Residential Scheme, 1981 if they have brought residential properties on or after 25.04.1986.

8. This issues with the approval of Competent Authority.

Sd./-
(Rahul Kashyap)
Director (Delhi Division)
Tele. 23062387"

**5.** Ms. Takiar submits that, in view of the relaxation contained in para 7 of the aforesaid Office Memorandum, the case of the petitioner would be reconsidered in accordance therewith.

**6.** The affidavit of the DDA, accompanying the aforesaid Office Memorandum, acknowledges the fact that the case of the petitioner is covered under para 7 thereof.

**7.** In view thereof, nothing survives for adjudication in this writ petition, which is disposed of accordingly.

**8.** The respondents are directed to re-consider the case of the petitioner and take a decision thereon within a period of four weeks.

**9.** No costs.

**C.HARI SHANKAR, J**

**DECEMBER 12, 2018**
*dsn*

HIGH COURT OF DELHI
सत्यमेव जयते