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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11077/2016

VED PARKASH MALHOTRA

..... Petitioner

Through: Petitioner in person

versus

DELHI DEVELOPMENT AUTHORITY & ANR Respondents

Through: Mr. Arjun Pant, Advocate for the
DDA

Ms. Mallika, Advocate for the UOI

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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26.02.2018

We have heard the petitioner in person, who has filed the writ
petition, praying for the following reliefs:-

“a. The Public Notice of Delhi Development Authority
dated 11-11-2014 in newspapers be declared as null
and void.

b. Quash and set aside the impugned "UBBL-2016"
notification, being ex-parte, arbitrary and illegitimate,
in the interest of justice.

c. Issue a writ in the nature of mandamus directing the
DDA to follow the laid down provisions of the Delhi
Development Act 1957 (61 of 1957), Master Plan of
Delhi-2021 and relevant rules made under it.

d. Issue a writ in the nature of mandamus directing the
MoUD GoI to carry out due diligence before according
approvals to the proposals of DDA.

e. Pass orders for cost in favour of the petitioner and against the respondents.”

2. The contention of the petitioner is that the Unified Building Bye-Laws for Delhi-2016 (‘UBBL’) framed were a part and parcel of the Zonal Development Plan, as defined and mentioned in Section 8 of the Delhi Development Act, 1957 (‘Act’). Our attention is drawn to Clauses (vi), (ix) and (xi) of sub-section (2)(d) of Section 8 of the Act. Accordingly, it is submitted that Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959 was applicable and procedure prescribed was required to be followed. In the present case, the Delhi Urban Arts Commission (‘DUAC’) and the Delhi Development Authority (‘DDA’) had issued a Public Notice dated 11.11.2014 inviting objections or suggestions to the draft Bye-Laws. The procedure followed was also contrary to the mandate of Section 57 of the Act.

3. The DDA, on the other hand has rightly submitted, that the UBBL have been enacted under Section 57 of the Act, after consultation with different stakeholders, including the DUAC, which was appointed as a nodal agency with approval by the Ministry of Urban Development (‘MoUD’). Suggestions and objections were considered by the DUAC. Thereafter, the suggested and draft Bye-Laws were put up and considered by the Authority, in the meeting held on 17.02.2016. Mandate of Section 57 of the Act was followed. Authority after due consideration approved the Bye-Laws. The Bye-Laws were sent to MoUD for notification. On clearance, Notification

dated 22.03.2016 was issued. Bye-Laws were thereafter placed before both the Houses of Parliament, in terms of Section 58 of the Act. Clearly there was compliance of the statutory mandate of Section 57 of the Act.

4. The contention of the petitioner that the UBBL were part and parcel of the Master Plan and Zonal Development Plan is misconceived and cannot be accepted, inspite of reference being made to Clauses (vi), (ix) and (xi) of sub-section 2(d) to Section 8 of the Act. There is a difference between the Master Plan, Zonal Development Plan, and the Building Bye-Laws. The Building Bye-Laws must conform and meet the mandate and stipulations of the Master Plan and Zonal Development Plan, but it will be incorrect and wrong to state that the Building Bye-Laws are a part and parcel of the Master Plan and Zonal Development Plan. The Master Plan and Zonal Development Plan deal with the development in different zones and stipulate basic pattern of frame work. Zonal Development Plans relate to each zone and contain use plan, approximate locations and extent of land-uses proposed. The stipulations, are binding. The Building Bye-Laws, on the other hand, deal with construction of buildings and are based on National Building Code of India. Building Bye-laws must confirm and supplement the Master Plan and Zonal Development Plan, but cannot supplant them. Purpose and object of the Building Bye-Laws is different.

5. It is not the case of the petitioner that the Building Bye-Laws i.e. UBBL conflicts and are contrary to the mandate and the stipulations of the Master Plan and Zonal Development Plan.

6. In *M.G. Ramachandran and Anr. versus Municipal Corporation of Delhi and ors.*, LPA No. 429 of 2014, decided on 31st March, 2014, after making reference to relevant provisions of the Act and also the Judgment in the case of *Shanti Devi Gupta versus DDA*, AIR 1994 Delhi 299, it was held that amendment in the micro level plans must be in conformity with the macro level plans in other words, the Bye-Laws or the Local Lay-Out Plans could be amended, *albeit* with due adherence and in conformity with the Master Plans and Zonal Development Plans. Relevant portion of the said judgment, which substantially answers the contention of the petitioner in negative, reads:-

"26. The scheme of the Act and the Master Plan shows that planning at the micro level has been left to the Local Bodies and the Authority for areas under their jurisdiction. This micro level planning, reflected in the lay-out plan, in areas under jurisdiction of DDA, is the baby of the authority. The only curb on the power, is to follow the development norms and planning norms frozen by the Master Plan and Zonal Development Plan. Of course the Development Code as it is, is a part of the Master Plan.

27. Clause 4 read with clause 2(1) of the Development Code designates 9 categories to which an area can be put to a dominant use. These 9 categories can well be said to be the apex of the pyramid. Further, clause 4 enumerates 37 land uses within these 9 categories. These 37 uses can well be said to be mid segment of

the pyramid. Clause 2(2), 2(3), 3(2), 3(3), 3(6), 5 and 6 of the Development Code, read together enumerate 136 further division. These 136 can well be said to form the base of the pyramid.

28. How this translates to a site can be graphically put as under:

Master Plan
Zonal Development Plans
Lay-out Plans

29. Clause 3(11) of the Development Code leaves it to the authority to approve lay-out plans in areas within its jurisdiction and similarly in the local bodies. Section 5A of the Act empowers the authority to constitute committees for such purposes as the authority thinks fit. One of the purpose is to prepare the lay-out plans and even amend them. It is an in house procedure. Similar is the position pertaining to such lands which are under the jurisdiction of the local bodies.

30. In the decision reported as AIR 1994 Delhi 299 *Shanti Devi versus DDA*, a Division Bench held:

"As noticed above, the Delhi Development Act in general and Section 9 of the said Act in particular, only refer to the Master Plan and Zonal Plan and not the lay-out plan, which is sort of working drawings prepared by the DDA. Any departure from the lay-out plan, strictly speaking, cannot be equated with the violation of the Master Plan or the Zonal Development Plan, which are statutory and termed as a violation falling with the ambit of Section 14 of the Delhi Development Act.

37. As regards the contentions advanced which were premised on clause (a) of sub-Section 2 of Section 8 read with clause (d)(i)(iv)&(v) thereof, for the reasons given hereinabove, the argument has no force unless

there are positive averments to the effect that the Zonal Development Plan prepared contains the site plan as also the use plan. The reason is that the legislature, evidenced by the use of the words 'a Zonal Development Plan may' in Section 8(2), left it to the discretion of the authority while preparing the Zonal Development Plan to embody therein the site plan and the land use plan or simply prepare the Zonal Development Plan at the macro level and then leave, at the micro level, the lay-out plan to be prepared either by the authority or the local authority as the case may be. Of course, the lay-out plan had to conform to the Development Code.”

7. In view of the aforesaid position, we do not find any merit in the writ petition and the same is dismissed, with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 26, 2018

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