



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

Date of decision: 22nd SEPTEMBER, 2022

IN THE MATTER OF:

+ **LPA 85/2021**

SURJEET SINGH

..... Appellant

Through: Mr. Jagjit Singh, Ms. Preet Singh, Mr. Vipin Chaudhary and Ms. Kalyani Arora, Advocates.

versus

GOVT OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Rachita Garg, Advocate for R-1 /GNCTD.

Ms. R. K. Dhawan, Standing Counsel with Mr. V. K. Teng and Mr. Anshul Bhadouriya, Advocates for R-2 /DSIIDC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. The present LPA arises out of the Impugned Order dated 12.10.2020 passed by the Ld. Single Judge in W.P. (C) 7748/2020.
2. The facts leading to the filing of the instant LPA are that the Appellant is the proprietor of M/s Surjeet Printers, established in 1989 at the address 7K, Kolhapur Road, Delhi. The Hon'ble Supreme Court in 1996 had issued directions to relocate industries in non-conforming and residential areas to areas earmarked for industrial purposes. For the purpose of allotting new



land, the industrial areas were earmarked for development including Bawana-II (Bhorgarh)

3. In compliance with the aforesaid directions, Respondent No.1/Government of NCT of Delhi through the Department of Industries floated the Scheme of Relocation of Industries (hereinafter referred to as “the Scheme”) and appointed Respondent No. 2/Delhi State Industrial & Infrastructure Development Corporation Limited as the implementing agency for purposes of the Scheme.

4. The Appellant accordingly applied for allotment of land under the Scheme, through application number 51937, on 20.12.1996. In compliance with the conditions stipulated in the application, M/s Surjeet Printers deposited the earnest money of Rs. 1,20,000/-. They also submitted the requisite documents annexed to the application form to meet the requisite conditions of the application process.

5. The Appellant was declared eligible as per the provisions of the Scheme. The Appellant, therefore, was allotted land admeasuring 250 square metres at the rate of Rs.4,200/- per square meter, as per terms of the confirmation letter dated 28.07.2006.

6. The Relocation Division of Respondent No. 2/DSIIDC provisionally allotted land measuring 250 square meters, to the Appellant on 28.07.2006. Paragraph No.2 of the provisional allotment letter indicates the tentative cost of said land was to be Rs. 4200/- per square meter, and is subject to revision taking into consideration the developmental costs of land in other industrial areas. Subsequently, *vide* a letter dated 19.01.2007, the Appellant was finally allotted the land under the Scheme, albeit by this date, the Respondent authorities revised the cost of land to Rs. 5,150/- per square meter. Paragraph 3(i) of this letter directs the allottee (the Appellant) to deposit 50% of the total



cost of land at the rate of Rs. 5150/- per square meter, while the rest of the 50% cost was left to be recovered through a subsequent intimation. The Appellant duly complied with the aforesaid direction, depositing Rs.5,23,750/- (being 50% of the total cost calculated at Rs. 5,150/- per square meter) through a voucher of Respondent No. 1, dated 16.03.2007. Thereafter, the Respondent No. 1/GNCTD through a circular dated 17.08.2010 notified the revised cost of land situated in Bawana-II industrial areas to be Rs.15,566/- per square meter.

7. After one month from the date of issuance of the above Circular, Respondent No. 2 *vide* a letter dated 17.09.2010 raised a demand on M/s Surjeet Publications to recover the remaining 50% of cost of land at a no profit no loss rate of Rs. 15,566/- per square meter. The letter provides a break-up of costs adding up to the revised amount, which is stated as follows:-

<i>Gross Cost per Square Meter in 2008-09</i>	<i>Rs. 8,518.10/-</i>
<i>Cost of Capital @ 10% per annum for 2009-11</i>	<i>Rs. 1788.80/-</i>
<i>50% of Gross Cost added as per Govt. Policy for light Industry (for cross subsidies towards Categories such as EWS)</i>	<i>Rs. 4259.10/-</i>
<i>Future O&M Cost (Corpus Fund)</i>	<i>Rs. 4,259.10/-</i>
<i>Future O&M Cost (Corpus Fund)</i>	<i>Rs. 1000/-</i>
<i>Cost per Square Meter</i>	<i>Rs. 15,566/-</i>

8. The balance amount in lieu of the 50% cost which had to be deposited by the Appellant was Rs. 31,12,575/-, within a period of 90 days from the issuance of the letter. Over and above this period, an additional time of 90



days was stipulated for payment, at an interest of 18% per annum on the balance amount. The letter stated that failure to deposit the amount after this period would result in cancellation of the allotment. Representation was given by the Appellant, challenging the increase in amount of cost of land.

9. The Respondent No. 2 on 28.12.2012 served a show cause notice demanding reasons from the Appellant as to why the allotment of industrial land in Bawana-II should not be cancelled, on account of the Appellant not depositing the balance amount on the cost of plot by the stipulated date, i.e., 31.08.2012. In continuation to the show cause notice dated 28.12.2012, the DSIIDC on 23.04.2013 served final notice granting the Appellant a final opportunity of depositing the balance amount, and extending the final date from 31.08.2012 to 30.06.2013, with interest rates to be effective from 22.01.2011.

10. The DSIIDC/Respondent No. 2 in a reply communication dated 23.08.2013 and in reference to the Appellant's letter dated 17.04.2012, 06.11.2012 and 18.06.2013 respectively stated that the prerogative of deciding land rates was of the GNCTD/Respondent No. 1. It was also clarified that being the implementing agency of the Scheme, they do not exercise any control over deciding land rates. A batch of petitions addressing a similar issue before the High Court and the Supreme Court had decided in favour of the DSIIDC charging revised rates for lands in the same area, i.e., Bawana II (Bhorgarh). As on the date of the aforesaid communication, it was also stated in the letter that 65% of the allottees of land under the Scheme had already deposited the balance at enhanced costs.

11. The Respondent No. 2/DSIIDC in its letter dated 01.06.2016 to M/s Surjeet Publications, stated that the Appellant had not yet deposited the balance amount in lieu of allotment of land offered under the Scheme.



Vide letter dated 31.03.2017, the deadline for depositing the balance amount with 18% interest per annum was extended. This deadline was further extended upto 31.03.2019 vide letter dated 09.11.2018.

12. A perusal of Public Notice dated 08.11.2019 and issued by the Respondent No. 2/DSI IDC reveals that the allotment process in respect of industrial lands as provided for under the Scheme was concluded in the year 2016. More importantly, the Public Notice stipulated the date for conclusion of the Scheme was to be 31.03.2020. As far as depositing the balance amount along with accruing simple interest at 18% per annum to DSI IDC was concerned, the date was extended upto 29.02.2020. On 15.11.2019, the Appellant was served a letter with a demand to deposit the balance amount along with accruing interest, calculated from a period of 22.01.2011 upto 31.10.2019. The total amount is to the tune of Rs. 80,32,149/-.

13. Respondent No. 2 issued an Office Order on 14.08.2020 extending the final date for depositing the balance amount by four and a half months from the date of issue of the Order. The Order is in the nature of an Amnesty Scheme which offers relief in the nature of waiver of 50% of accrued interest subject to the payment on the balance amount being fulfilled in time.

14. Shortly after, a demand letter dated 14.09.2020 for fulfilment of the balance amount was served upon the Appellants. Paragraph No.6 of the letter is reproduced below:

“6. For the allottees of Bawana-II (Bhorgarh), one time Amnesty Scheme has been introduced for reduction of interest component of outstanding dues towards cost of the plot. The amnesty scheme is as follows:-



(i) Allottee making the payment of the outstanding cost within 60 days from the date of issue of this order will get 50% rebate on the interest portion accrued thereof.

(ii) Allottee making the payment during the period of 45 days after the first sixty days, shall be eligible for 30% rebate on the interest portion accrued thereof.

(iii) The allottees failing to pay their outstanding dues during the aforesaid period shall not be eligible for any relief/waiver of interest but they will be given opportunity to make payment within 30 days thereafter.”

15. Being aggrieved by the demand letters and the letters threatening cancellation of allotment of land under the Scheme, the Appellant on 05.10.2020 filed W.P. (C) 7748/2020 before this Hon'ble Court. The reliefs sought in the prayers were to issue writs of: mandamus for quashing the DSIIDC's Office Order and notices dated 14.08.2020, 28.12.2012 and 23.04.2013 respectively; mandamus for restraining Respondent No. 2 from claiming the revised cost of land at Rs. 15,566/- for the plot of land allotted to the Appellants under the Scheme; mandamus for restraining the Respondent authorities from cancelling the allotment of land made to the Appellants under the Scheme.

16. The Id. Single judge in their Order dated 12.10.2020 dismissed the petition, rejecting the case of the Appellant herein mainly on the grounds that the Respondent authorities in their communications to the Appellants had clearly rejected requests for reconsidering the calculation of cost of allotted land at the revised rate of Rs. 15,566/- and had, in fact, through cancellation letters informed the Appellants of cancellation of allotment pending the payment on the balance amount. The Id. Single judge also observed that neither the representations sent to the Respondents, nor the DSIIDC's Office



Order dated 14.08.2020, could be accepted as valid grounds for extending the limitation period for the Appellant to challenge the demands served upon them. It was also noted that the challenge to the cost of land and the basis of its calculation was notified in 17.08.2010, which would attract delay and laches, and the petition was liable to be dismissed solely on this ground.

17. The Appellant deposited the balance amount of Rs. 57,18,934/- on the same date as the impugned Writ Petition was filed, i.e., on 12.10.2020. The DSIIDC issued a Possession Letter for the allotted land, along with a No Objection Certificate on 26.02.2021.

18. It is the Appellant's contention that at best, they be required to pay the cost of land at the rate of Rs. 3,000/- per square meter, and at worst, at the rate of Rs. 5,150/- per square meter (being the rate stipulated in terms of the allotment letter dated 19.01.2007).

19. The Appellant challenged the basis of calculation of their liability in lieu of payment of cost of re-allotted land at the revised cost of Rs. 15,566/- per square meter as unjust and arbitrary on account of the inordinate delay caused by Respondent No. 2/DSIIDC in allotting the land at Bawana II industrial area, under the Scheme. The Appellants relied on the representations sent to the Respondent authorities, in which the method of calculation of the balance amount that was due from the period they were allotted the said land, was challenged.

20. The Appellant was allotted the plot *vide* letter dated 19.01.2007. The letter of allotment dated 19.01.2007 states that the cost as on the date of making the allotment is tentative and subject to revision at a later date. Paragraph No.5 is reproduced below-



“This is to inform you *that the cost indicated above is tentative. The allottee will be liable to pay any increase in the cost of the plot due to reason(s) whatsoever*”

21. It is established that Respondent No. 1/GNCTD is the appropriate authority to decide the basis on which rates for the land allotted under the Scheme are calculated and consequently, revised or enhanced. Respondent No. 2/DSI IDC being merely the implementing agency has no say in deciding the same, and the rate for the land which has been allotted is fixed by the GNCTD. The Ld. Single Judge in the impugned Order in W.P. (C) 7748/2020 has also relied on the judgment of this Hon’ble Court in Narendar Kumar & Ors. v. Delhi State Industrial and Infrastructure Development Corporation Ltd., W.P.(C) 7141/2010, which pertains to the allotment of land at Bawana-II under the same Scheme, in which it was held that the decision of DSI IDC in charging enhanced price of land is neither arbitrary nor unreasonable. It was observed that:-

“20. In its order dated 27th October 2010 in Mohd. Jaan v. DSI IDC, this Court had, while dismissing the writ petitions, observed as under:

“2. This Court finds that the scope of interference by this Court in exercise of its powers under Article 226 of the Constitution in matters involving fixation of price by the authorities for land is narrow. In Kavita Ahuja v. Delhi State Industrial & Infrastructure Development Corporation Ltd. (decision dated 16th February 2010 in Civil Appeal No. 2192/2010 etc.) the Supreme Court was considering the challenge to the action of the DSI IDC in charging Rs. 4,200/- per sq. m. for plots in Bawana Industrial area, Rs. 5,400/- per sq. m. for plots in the Industrial estate at Narela, Jhilmil and Badli and Rs. 7,560/- per sq. m. for plots in



Patparganj Industrial area. A Single Judge of this Court had set aside the demand for the increased cost on the ground that the DSIIDC failed to show that it had undertaken any development activity or incurred any expenditure loss for the plots. This was reversed by the Division Bench of this Court by a judgment dated 22nd February 2008. The Division Bench upheld the action of the DSIIDC of charging Rs. 7,776/- per sq. m. for the plots at Narela. This judgment was challenged in the Supreme Court and the order of the Division Bench of this Court was upheld. In para 13, it was observed by the Supreme Court as under:

“13. The price of Rs. 5400/- per sqm fixed in 2001 is not disputed by the allottees. Having regard to the interest on the investment by way of financing cost, overheads and other factors, if the policy of the NCT of Delhi is to increase the price every year by 20%, it cannot be stated that the said increase is unreasonable or arbitrary. Having regard to the fact that the lands are being continuously acquired and developed and allotted, it will be very difficult to calculate the actual costs at any giving point of time. So long as the Corporation has shown that it had adopted a reasonable method of fixation of allotment prices and has asserted that price fixation is on a „no profit no loss“ basis, the price is not open for dealt with the issue appropriately and has rightly upheld the price of Rs. 7776/- per sq.m.” 3. This Court finds that, in principle, the Supreme Court declined to interfere with the enhanced cost demanded by the DSIIDC in the Narela cases on account of several factors.”

21. Thereafter, in para 6 it was observed as under:



“6. There are no judicially manageable standards to enable this Court to determine whether the charging of Rs. 15,566/- per sq. m. for a plot at Bhorgah is arbitrary or unreasonable. Learned counsel for the Respondents informs this Court that the cost revision was based on several factors and that the figure was arrived at after an elaborate exercise, records for which are available with the Respondents. Be that as it may, given the judgment of the Supreme Court in Kavita Ahuja, it is not possible for this Court to interfere in the matter of enhancement of the costs for the industrial plots at Bhorgah in Bawana Industrial Area.”

22. As regards the charging of interest by the DSIIDC from the allottees at 18% per annum on the delayed payments, while paying them interest at 10% per annum on the amounts deposited by them, this Court finds that this again is dictated by the way the money market behaves. It is not peculiar to the present cases. This appears to be the standard practice of financial institutions and banks.

23. As regards the creation of the corpus fund for maintenance, this Court finds the explanation offered in the counter-affidavit based on the recommendations of the Committee to be reasonable and plausible. It is not possible for this Court to sit in appeal over such determination and to hold it to be arbitrary or unreasonable. Nevertheless, it has been clarified by Ms. Salwan, the learned counsel appearing for DSIIDC that with the Petitioners being made to pay Rs. 1,000/- per sq. m. towards creation of the corpus fund for maintenance, the sum of 2.5% of land value towards annual maintenance would not be charged. It was further clarified that if, at a later point in time, the maintenance fund was found to be inadequate for the purpose, a further lump sum might be charged from each of the allottees.



24. In the above circumstances, this Court is unable to be persuaded to hold that the charging of Rs. 15,566/- per sq. m. for the plots at Bawana-II (Bhorgarh) by the DSIIDC is arbitrary or unreasonable.

25. The writ petitions are dismissed but in the circumstances with no orders as to costs. Applications also stand dismissed.”

The same analogy will apply to the facts of the instant case.

22. The land rate was claimed in the year 2010 and the Appellant has filed the writ petition almost ten years after the demand was made by the GNCTD. No reason has been given by the Appellant as to why the Appellant chose to keep quiet from 2010 till 2020, before the instant Writ Petition was filed. Further, the allotment letter is categorical in stating that the price of land was only tentative and that the allottee was liable to pay the increase in price due to whatsoever reason. This Court can take judicial note of the fact that the rate of the land increased due to several reasons.

23. The Appellant is not entitled to raise objections regarding increase in the cost of land after 10 years. Further, it is not the case herein that the Appellant was served upon a demand without any intimation of the increase in the cost of plot. In several communications sent to the Appellants throughout the years, they were sufficiently informed of the increase in the cost of industrial land allotted to them. No case has been made to interfere with the well-reasoned Order of the Ld. Single Judge passed in the impugned writ petition. We must also note that no equity vests in the Appellant's favour solely by virtue of the fact that they deposited the remaining balance amount of Rs. 57,18,934/-.



24. This appeal is accordingly dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

SEPTEMBER 22, 2022

hsk/sa

