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

Date of Decision: 28th January, 2021

+ LPA 42/2021 & CM APPLs.3039-41/2021

OKHLA INDUSTRIAL AREA TEMPO TRANSPORT UNION
(REGD.) THROUGH ITS GEN. SECRETARY Appellant
Through: Mr. Deepak Tyagi, Adv.

versus

DELHI & ORS. Respondents
Through: Ms. Anusuya Salwan, Ms. Nikita
Salwan, Mr. Abhishek Pundir, Mr. Bankim
Garg & Mr. Chaitanya Bansal, Advs. for DSIIDC.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

D.N. PATEL, Chief Justice(Oral)

The proceedings in the matter have been conducted through video conferencing.

CM APPLs.3040/2021 & 3041/2021(exemptions)

Allowed, subject to just exceptions.

Both the applications stand disposed of.

LPA 42/2021 & CM APPL.3039/2021(stay)

1. Being aggrieved and feeling dissatisfied by the interim order passed by the learned Single Judge dated 22.01.2021 in W.P.(C) 919/2021, the appellant/original petitioner has preferred the present Letters Patent Appeal.
2. Notice dated 31.12.2020 issued by Delhi State Industrial and

LPA 42/2021

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Infrastructure Development Corporation (in short 'DSI IDC') was under challenge in the Writ Petition being W.P.(C) 919/2021

For ready reference, the said notice reads as under:-

"DSI IDC LTD.
74-A, Property Tax Building, Ring Road, Lajpat Nagar, Delhi
INDUSTRIAL ESTATE MANAGEMENT-SOUTH

No. DSI IDC/IEM-S/I/Ph-III/801

Dated: 31.12.2020

Notice

Whereas an open area of 80'X 80' was offered for parking of transport vehicle and the same was allotted vide letter dated 30.06.1983 on purely temporary and monthly rental basis @ Rs.135/- per month for two years to the Okhla Industrial Area Tempo Transport Union, behind Shed No. 1, OIE, Phase-III, New Delhi.

Whereas, no further extension was granted, however a fresh permission was granted vide this office letter dated 05.01.1999 again on purely temporary and monthly rental basis @ Rs.161.04 per Sqm. per month for two years w.e.f. 01.08.1998 to the Okhla Industrial Area Tempo Transport Union.

Whereas, the above union did not agree to the terms & conditions of the allotment dated 05.01.1999.

Whereas, no extension has therefore been granted.

Whereas, it has been reported that the union has unauthorisedly and illegally encroached upon the government land behind shed No.1, OIE, Phase-III, New Delhi.

Now, therefore, you are directed to remove the encroachment/ unauthorized occupation of the said land within 1 (One) week, failing which appropriate action will be taken by

the department without further notice.”

(S.K. Singh)
Div. Manager (IEM)”

3. The appellant had challenged the aforesaid notice in the writ petition and since the learned Single Judge declined to stay the operation and effect of the notice on the first day of hearing, and adjourned the writ petition for further hearing on 05.02.2021, the present Appeal has been preferred against the said order.

4. Having heard learned counsels for the parties and looking to the facts and circumstances of the case, we see no reason to grant stay to the appellant for retaining the property in question, which is to be allotted by DSIIDC – respondent No.1.

5. Much has been argued out by learned counsel for the appellant with respect to the allotment of the plot in question as well as the possession of the appellant on the said plot. Reliance has been placed on various orders and annexures appended to the appeal. We have seen the allotment letter dated 30.06.1983 of the plot in question, which is appended as Annexure P-4 (colly.) at Page No.71.

6. This was a conditional allotment on purely temporary basis for a period of two years subject to renewal on the request of the allottee, which could be refused at a discretion of the Department. Condition No.2 reads as under:-

“2. This allotment is for a period of two years which can be renewed on your request for further period but the department will have full discretion to refuse such request.”

(emphasis supplied)

7. On a pointed query to the learned counsel for the appellant, if any request was ever made by the appellant (original petitioner) for renewal of the allotment after the cessation of the period of 2 years from the first allotment, the answer was in the negative. However, it was submitted that the appellant has been paying the rent @ Rs.135/- per month for the plot admeasuring 80 mts. x 80 mts.

8. Learned counsel for the respondent No.1, *per contra*, submits that the appellant has on his own being depositing the rent directly in the Bank Account and there was no demand by the concerned respondent and also disputes the size of the plot.

9. It is contended by learned counsel for respondent No.3 that the plot in question was allotted by respondent No.1, initially, to the predecessor-in-title of respondent No.3, namely, M/s Grant Iron Works and the present respondent No.3 M/s JKVB Properties Pvt. Ltd. is successor-in-title by virtue of transfer of title in the year 2003. Earlier also, some litigation was initiated by the appellant and respondent No.3, in this regard.

10. We have heard learned counsels for the parties. Prima facie, it appears that the allotment of the plot in question was for a temporary period of two years with a right to the appellant to seek a renewal and it was for the concerned Department to grant or not grant the renewal. The appellant has not been able to point out any application seeking extension/renewal of the allotment. Be that as it may, these are questions which would be decided by the learned Single Judge while hearing the writ petition and at this stage, we are not inclined to entertain the present appeal as it would be pre-judging the issues raised in the writ petition, one way or the other.

11. Learned Single Judge has adjourned the hearing of the writ petition

without deciding the rights and contentions of the parties and in our view, no error has been committed while passing the impugned order dated 22.01.2021, calling for our interference.

12. Since the counsel for the appellant expresses an urgency in the matter, we request the learned Single Judge to decide the writ petition as early as possible and practicable. Counsels for the parties assure the Court that they shall not seek unnecessary adjournments.

13. With these observations the appeal is dismissed with no order as to costs.

14. Pending application is also disposed of.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 28, 2021

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