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

Date of decision: 04.08.2023

+ **CONT.CAS(C) 477/2016 & CM APPL. 18354/2018, CM APPL. 3097/2023**

AMIR SINGH AGGARWAL

..... Petitioner

Through: Mr. Anil K. Aggarwal, Ms. N Yadav,
Adv.

versus

ARUN GOEL

..... Respondent

Through: Mr. Arjun Pant, SC with Mr. Anish
Dhingra, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition seeking initiation of contempt proceedings for violation of the order and judgment dated 09.10.2015 passed in WP(C) 4604/2012. The operative portion of the order / judgment reads as under:-

“Consequently, as the restriction for allotment as envisaged under Rohini Residential Scheme is inapplicable to the facts of the present case, this Court quashes the show cause notice dated 07th June, 2012 issued by respondent-DDA to the petitioner. Respondent-DDA is further directed to allot a MIG plot under the Rohini Residential Scheme as per Nazul Land Rules after holding a mini draw within a period of twelve weeks.”



2. Pursuant to the said directions, the respondent - DDA held a draw of lot on 28.10.2016 and allotted a 60 sq. mtrs. plot to the petitioner.
3. On 23.03.2018 *vide* demand-cum-allotment letter, Plot No. 158, Pocket No. A-1, Sector – 35 in the Rohini Residential Scheme was allotted to the petitioner.
4. It is stated by Mr. Aggarwal, learned counsel for the petitioner that this draw of lot held on 28.10.2016 is contempt of the order / judgment dated 09.10.2015. To substantiate his submission, Mr. Aggarwal, learned counsel has drawn my attention to DDA (Disposal of Developed Nazul Land Rules), 1981 (hereinafter called the DDA Nazul Land Rules), and more particularly, Rule 18 which reads as under:-

“18. Size of plots

Save as otherwise provided in these rules, the maximum size of a plot allotted to an individual for a residential purpose shall be:-

- (i) 104 square metres in the case of an individual belonging to the low income group;*
 - (ii) 167 square metres (but not less than 105 square metres) in the case of an individual belonging to the middle income group; and*
 - (iii) 500 square metres in any other case.”*
5. In this view of the matter, the allotment of 60 sq. yds. plot is violative of the Rule 18(ii) of DDA Rules, 1981 and the petitioner should have been allotted 167 sq. mtrs. plot but anyways not less than 105 sq. mtrs.
 6. Mr. Pant, learned standing counsel for the respondent has drawn my



attention to the Rule 45 of DDA Nazul Land Rules which reads as under:-

“[45. Directions to the Central Government to be supplementary to rules

(1) The directions given from time to time, by the Central Government under sub-section (3) of section 22 of the Act, shall be supplementary to but not in derogation of the provisions of these rules for dealing with the Nazul land.

(2) In particular and without prejudice to the generality of the foregoing provisions, such directions may be given -

(a) for removing any doubt or dispute or difficulty arising in giving effect to the provisions of these rules, or

(b) for dispensing with or relaxing the requirement of any rule to such extent and subject to such exceptions and conditions as may be specified in the direction, in any particular case where the Central Government, for reasons to be recorded by it is satisfied that the operation of any rule in that case causes undue hardship having regard to the objects of the Act.]”

7. The Central Government took a policy decision that henceforth in LIG Category, plot size of only 32 sq. mtrs would be allotted and in the MIG Category, plot size of only 60 sq. mtrs. would be allotted. The decision was notified by a public notice published on 01.11.1999 by the DDA.
8. It is stated by Mr. Pant, learned standing counsel that pursuant to the directions of the Government and in accordance with the Rule 45 of the DDA Nazul Land Rules, the DDA on 06.08.1999 took a decision to



reduce the plot sizes of MIG Category from 90 sq. mtrs. to 60 sq. mtrs.

9. To my mind, no fault can be found with the allotment made by the DDA. It is not a contempt of the directions issued by this Court on 09.10.2015. The allotment made to the petitioner is in accordance with the directions issued by the Central Government and the policy of the DDA which is also not averse to the DDA Nazul Land Rules. In fact Rule 45 of the DDA Nazul Land Rules permits so.
10. My attention has also been drawn to the judgment of the Coordinate Bench in “**Major General Pradeep Kumar Mahajan & Ors. vs. Delhi Development Authority & Ors.**” [(2005) SCC OnLine Del 177], and more particularly, paragraphs 53 and 54 which read as under:-

“53. I really fail to comprehend what the petitioners wanted to urge. It was the Central Government which took a decision on 9.7.1999 to limit size of plot under MIG category to 60 sq. mtrs. Thus, qua DDA mandate of Central Government was not to allot any plot of 90 sq. mtrs. after 9.7.1999 under the Rohini Residential Scheme to an applicant in the MIG category.

54. DDA has to dispose of Nazul Land subject to any direction which may be issued to it by the Central Government. If on 9.7.1999, Central Government decided that henceforth, under the Rohini Residential Scheme, in the MIG category plots of only 60 sq. mtrs. would be allotted, DDA is bound by it. In any case as held in AIR 1994 Delhi 299 Shanti Devi Gupta v. DDA; 76 (1998) DLT 329 Triveni Educational & Welfare Society v. DDA



& Anr. and 87 (2000) DLT 603 BU Block Residents Welfare Association & Ors. V. DDA, DDA has the power to amend or alter a layout plan.”

11. The petitioner, without prejudice to his rights, will pay the amount as demanded for allotment of the plot. His request for payment of price of plot at the rates prevalent in 2018 shall be considered sympathetically by the respondent in view of the fact that the petitioner was pursuing the present contempt petition since 2016.
12. For the aforesaid reasons, I find no merit in the present contempt petition and same is dismissed.

JASMEET SINGH, J

AUGUST 4, 2023 / (MS)

Click here to check corrigendum, if any