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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment Delivered on: 01.07.2025*+ W.P.(C) 13153/2021 & CM APPL. 41483/2021, 9904/2025,
23011/2025

AVINASH CHANDERPetitioner

Through: Mr. Robin Bansal, Adv.

versus

DELHI DEVELOPMENT AUTHORITY AND ANR.....Respondents

Through: Ms. Manika Tripathy, SC for DDA.

CORAM:**HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J**

1. In the present petition, the petitioner is aggrieved by the letter dated 09.02.2017 issued by the respondent no.1/DDA whereby the plot bearing no.151, Pocket C-4, Sector 34 measuring 60 sq. mtrs. in Rohini Residential Scheme (hereafter the 'plot') allotted to the petitioner *vide* Demand-cum-Allotment Letter dated 27.11.2014 was cancelled/withdrawn. A prayer has been made seeking issuance of writ to the respondents thereby directing them to issue allotment and hand over possession of the plot.

2. The case set out by the petitioner in the present petition is that the petitioner in the year 1981 upon advertisement of the residential scheme by the respondent no.1/DDA (hereafter 'DDA') applied for a plot in Rohini MIG Residential Scheme, 1981 (hereafter the 'scheme') *vide* receipt no. 07592 dated 13.04.1981. The DDA *vide* Allotment-cum-Demand Letter dated 27.11.2014 allotted the plot to the petitioner. Upon receiving the said



Allotment-cum-Demand Letter, the petitioner made entire payment of Rs. 13,79,662/-. Thereafter, the petitioner *vide* his letter (Annexure P-6) requested the DDA for issuance of possession letter in respect of the plot.

3. In response to the DDA's letter dated 10.11.2014, petitioner informed that he is residing in Arya Group Housing Cooperative Society [hereafter 'cooperative society'] and the land/plinth area on which his flat is constructed is 90 sq. mtrs., and there are four storeys constructed on it, the petitioner is residing on the third floor, and if the land/plinth area is divided amongst four flats constructed on it, the proportionate share of each flat shall be less than 25 sq. mtrs.

4. The petitioner also apprised DDA that he and his wife, both are 62 yrs old and still after 35 yrs of waiting he did not get possession of the plot. The petitioner and his wife retired from service in 2013 and had purchased the flat in the cooperative society from the open market. Had the said flat not been purchased, the family of the petitioner would have been constrained to live in a rented accommodation. It was further stated that the petitioner had deposited the full amount of the plot and exhausted all his retirement fund, and it is not understandable as to why queries are being raised at a belated stage, when the DDA was obliged to allot the plot within 05 years of the scheme.

5. Thereafter, to the utter shock of the petitioner, he received a show cause notice dated 21.09.2016 stating that during the scrutiny of the petitioner's application for issuance of possession letter it has been noticed that he is in possession of a property bearing no.304, Arya Apartments, Sector 15, Rohini, Delhi measuring 90 sq mtrs as per the Sale Deed submitted by the petitioner and since the area of the said property measures



more than 67 sq. mtrs., the petitioner is not entitled for allotment of plot under the Rohini Residential Scheme, 1981. Accordingly, in view of Rule 17 of the Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (hereafter the 'Rules'), the petitioner was called upon to show cause as to why the allotment of plot under MIG category under the Rohini Scheme shall not be cancelled. Further, the petitioner was also called upon to attend the Office of DDA.

6. Sequel to above, the petitioner appeared and explained that the size of the plot/plinth area on which the flat in the name of petitioner's wife had been constructed and urged that the plot allotted to the petitioner cannot be cancelled under Rule 17 of the Rules. The petitioner further stated that it was obligatory on part of the DDA to hand over possession of the plot within 05 years, in terms of the Rohini Scheme, and it was only after waiting for 25 years that the petitioner purchased flat in 2005 from open market. The petitioner thus, requested for dropping the proceedings initiated by show cause notice. Despite the justified cause having been shown by the petitioner, the DDA cancelled the allotment of plot *vide* cancellation letter dated 09.02.2017 (Annexure P-9).

7. After receiving the cancellation letter, the petitioner *vide* letter dated 21.02.2017 (Annexure P-10) requested the DDA to re-consider the decision to cancel the allotment of plot to him.

8. The DDA *vide* its communication dated 28.09.2017 issued with the approval of the competent authority informed the petitioner that show cause notice / cancellation letter issued on 21.09.2016 / 09.02.2017, on account of acquisition of property in violation of Rule 17 of the Rules, is kept in



abeyance at present with reference to the approval / disapproval of the decision of the competent authority in the matter.

9. The petitioner has also relied upon an Office Memorandum dated 15.11.2018 issued by the Ministry of Housing and Urban Affairs whereby the Central Government exercising its power under Rule 45(2)(b) of Nazul Rules considered the request of DDA, and in view of the special circumstances of inordinate delay in delivery of properties under the Rohini Scheme, relaxed the provisions of Rule 17 of the Rules to the extent that the provision of said Rule will not be applicable w.e.f. 25.04.1986 onwards in respect of registrants of Rohini Residential Scheme 1981. It was further clarified that the relaxation is available only to the registrants of Rohini Residential Scheme 1981 if they have bought residential properties on or after 25.04.1986.

10. The petitioner also relied upon the Circular of DDA dated 31.03.2015 whereby it was clarified that where Rule 17 of the Rules is to be applied to flats, then proportionate share of individual flat on the land can be calculated and so long this individual share is less than 67 sq. mtrs., the individual concerned shall be entitled to be allotted plot or a house or a flat under the various DDA schemes.

11. In the aforesaid factual backdrop, the present petition has been filed.

12. The DDA has filed its counter-affidavit whereby it admitted having allotted a plot to the petitioner, the payment of premium having been made by the petitioner within time, and further furnishing of various documents by the petitioner.



13. It is further stated in the counter-affidavit that the plot was cancelled primarily on the ground that on the perusal of the documents furnished by the petitioner it was found that the co-allottee i.e. wife of the petitioner namely, Smt. Santosh Chaudhary was the owner of the property i.e. House No. 304, Arya Cooperative Group Housing Society, H-Block, Sector 15, Rohini, New Delhi-110085 vide Sale Deed dated 12.04.2005 and the petitioner has accepted vide his letter dated 14.12.2015 that the said flat was purchased from the open market and is constructed on a plot of measuring 90 sq mtrs of land on which four floors are constructed, and his shares comes to 22.5 sq mtrs as he was residing on the third floor.

14. In respect of the Circular dated 31.03.2015 relied upon by the petitioner, the DDA in its counter-affidavit stated that a corrigendum dated 26.07.2016 was issued by the DDA stating that the matter with regard to the eligibility of allottees of Group Housing Flats and DDA Multi-storied Housing Flats having their proportionate share in plinth area less than 67 sq. mtrs has been further deliberated and the fact that the issue may be reviewed and a comprehensive policy decision is required to be taken after seeking approval of the authority, therefore, the operation of Circular dated 31.03.2105 is kept in abeyance with immediate till further orders/decision of the Competent Authority.

15. DDA Circular dated 31.03.2015(Annexure R-2) read as under:

DELHI DEVELOPMENT AUTHORITY
OFFICE OF DEPUTY DIRECTOR LSB (ROHINI)
No. F.16(5) 2003/LSB (Ro) Pt/553 **Dated:31.03.2015**
CIRCULAR
Eligibility of allottees of Group Housing flats and DDA multi-storied housing flats in DDA's housing estates having their



proportionate share in plinth area less than 67 sq. mtr. was under consideration for sometime in the case.

One of the issues which has been engaging the attention of DDA is regarding the interpretation of Rule-17 of the Nazul Rules in respect to Group Housing Societies through DDA flats. Rule-17 reads as under:

“Notwithstanding anything contained in these rules, no plot of Nazul land shall be allotted for residential purposes, to an individual other than an individual referred to in clause (i) of rule 6, 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 such individual, own in full or in part, on lease-hold or freehold basis, any residential land or, house or who has been allotted on hire-purchase basis any residential land or house in the National Capacity Territory of Delhi”

Provided that where, on the date of allotment of Nazul land,-

- (a) the other land owned by or allotted to such individual is less than 67 square metres, or*
- (b) the house owned by such individual is on a plot of land which measures less than 67 square metres, or*
- (c) the share of such individual in any such other land or house measures less than 67 square metres, he may be allotted a plot of Nazul land in accordance with the provisions of these rules.*

After due deliberations, it has been decided that if this rule is applied to flats, then proportionate share of individual flat on the land can be calculated. As long as this individual share is less than 67 sq. mtrs., the individual concerned is entitled to be allotted a plot or a house or a flat under the various DDA schemes.

The issue with the approval of Competent Authority.

Dy. Director (LSB) Rohini
(emphasis supplied)



16. The DDA corrigendum dated 26.07.2016 (Annexure R-1) reads as under:

DELHI DEVELOPMENT AUTHORITY
OFFICE OF DEPUTY DIRECTOR LSB (ROHINI)
No. F.16(5) 2003/LSB (Ro) Pt/380 Dated:26.07.2016

CORRIGENDUM

This is in reference to Circular dated 31.03.2015 issued by DDA vide No. F.16(5) 2003/LSB (Ro) Pt/553 regarding “Eligibility of allottees of Group Housing Flats & DDA multi-storied housing flats in DDA’s housing estates having their proportionate share in plinth area less than 67 sq mtrs.”

The matter was further deliberated and felt that the issues involved may be reviewed and a comprehensive policy decision is required to be taken after seeking approval of the Authority. Therefore, the operation of Circular dated 31.03.2015 is kept in abeyance with immediate effect till further orders/decision by the Competent Authority.

This is issue with the approval of Competent Authority.

DD/LSB (Rohini)
(emphasis supplied)

17. The relevant paragraphs of the counter-affidavit wherefrom the stand of the DDA is borne out reads as under:

“PRELIMINARY OBJECTIONS

4. That it is submitted that the Petitioner Avinash Chander had applied under Rohini Residential Scheme, 1981 vide application no. 25146 on 13.04.1981 and got the priority no. 10171. That the petitioner was allotted the plot bearing no.151, pocket-C4, sector 34, Rohini, Delhi area admeasuring 60 sq. mtrs under MIG category and Demand cum Allotment Letter was issued to him on 27 .11.2014 after the computerized draw held on 06.12.2012.

5. That the petitioner had made the payment of premium in 2015, within time and submitted other required documents. However, on



perusal of the documents, it was found that the co-allottee, i.e. wife of allottee, Smt. Santosh Choudhary was the owner of property, House no. 304 Arya co-op G.H.S, H-Block, Sector-15, Rohini, Delhi 110085. That allottee had also submitted the copies of Conveyance Deed and Sale Deed dated 12/04/2005, in favour of his wife. The Petitioner accepted that vide his letter dated 14.12.2015 that he had purchased this flat from open market and his flat is constructed on a plot of 90 square meters of land on which four floors are constructed and his share comes to be $90/4 = 22.5$ square meters as he was residing on the third floor.

6. That therefore, a Show Cause Notice (SCN) dated 21.09.2016 was issued to the petitioner Sh. Avinash Chander. The reply of the show cause notice was received from him that his wife owns a flat constructed on a plot of appr. 90 sq. Mtr. and that her share of the plot is only 22.5 sq. He had also taken plea of DDA circular bearing no. F16(5)2003/LSB(Ro)Pt./553 dated 31.03.2015 to divide the plot area proportionately in floors.

*7. That it is humbly submitted that a Corrigendum bearing no. F16(5)2003/LSB(Ro)Pt./380 dated 26.07.2016 was issued and circular dated 31.03.2015 was kept in aberrance with immediate effect. Hence, the reply of Avinash Chander was not accepted and the competent authority cancelled the allotment of the petitioner Sh. Avinash Chander on 09.01.2017 which was communicated to him vide letter bearing no. F16(3518)2012/RHN/DDA/I112 dated 09.02.2017. A copy of the Corrigendum bearing no. F16(5)2003/LSB(Ro)Pt./380 dated 26.07.2016 is enclosed and marked as **Annexure R1.**”*

18. Mr. Robin Bansal, the learned counsel appearing on behalf of the petitioner submits that the flat was purchased in the name of petitioner's wife in the year 2005, after 25 years the petitioner had applied under the Rohini Scheme. The said flat is in a cooperative society constructed on a plinth area of 90 sq mtrs on which four floors have been constructed, therefore, the proportionate share of the petitioner in the plinth area comes to



22.5 sq mtrs approximately which is less than 67 sq mtrs. Thus, there is no bar under Rule 17 of the Rules and the petitioner is entitled to be allotted plot under the Rohini Scheme.

19. He submits that *vide* communication dated 28.09.2017, the show cause notice, as well as, cancellation letter, were kept in abeyance to await the decision of the competent authority in the matter.

20. He further submits that the DDA *vide* its letter dated 14.09.2018 had sought approval from the Ministry of Housing and Urban Affairs regarding relaxation of eligibility criteria under Rule 17 in terms of Rule 45(2)(b) of the Rules, in respect of the Rohini Scheme, and the Central Government *vide* its memorandum dated 15.11.2018 had granted such relaxation to the registrants of the Rohini Scheme w.e.f. 25.04.1986. He submits that cut-off date 25.04.1986 was chosen as the Rohini Scheme was closed on 25.04.1981 and the allotment of the plot was to be made in phases spread over a period of 05 years from the last date of receipt of application for the Rohini Scheme, therefore, the cut-off date has been fixed as 25.04.1986.

21. He submits that the benefit of relaxation from Rule 17 of the Rules should enure to the petitioner as well, as the flat was purchased by the wife of petitioner in the year 2005 i.e. after the cut-off date of 25.04.1986. He submits that since cancellation of the plot allotted to the petitioner was kept in abeyance in DDA to await the decision of competent authority, therefore, after the decision of the Central Government was notified by an Office Memorandum dated 15.11.2018, the DDA ought to have recalled the cancellation letter dated 09.02.2017.

22. Mr. Bansal has placed reliance on the decision of the Hon'ble Supreme Court in ***Delhi Development Authority vs. Jitender Pal Bhardwaj***,



(2010) 1 SCC 146, as well as, the decision of the Coordinate Bench of this Court in ***Shail Shukla vs. DDA, 2023 SCC OnLine Del 6663***.

23. *Per contra*, Ms. Manika Tripathy, learned Standing Counsel for the DDA submits that since petitioner's wife owns a flat in a cooperative society, therefore, the petitioner was not entitled to allotment under the Rohini Scheme in view of the eligibility criteria mentioned in the scheme, as well as, in view of the Rule 17 of the Rules. She submits that the petitioner had also concealed the factum of flat having been purchased in the name of petitioner's wife.

24. She submits that the petitioner cannot claim benefit of the Office Memorandum dated 15.11.2018 as the allotment was cancelled by the DDA *vide* its cancellation letter dated 09.02.2017 i.e. prior to the said Office Memorandum.

25. Having heard the learned counsel for the parties, the short question which arise for the consideration of the Court is whether the petitioner is entitled to allotment of plot under the Rohini Scheme despite having purchased a flat from open market in a cooperative society in the year 2005.

26. The eligibility condition as provided under Para 1(ii) in the Brochure of the Rohini Residential Scheme, 1981, which was launched in February, 1981, requires that –

“1.ELIGIBILITY

(ii) The individual or his wife/her husband or any of his/her minor children do not own in full or in part on lease-hold or free-hold basis any residential plot of land or a house or have not been allotted on hire-purchase basis a residential flat in Delhi/New Delhi or Delhi Cantonment. If, however, individual share of the applicant in the jointly owned plot or land under the residential house is less than 65 sq. mtrs. an application for allotment of plot



can be entertained. Persons who owns a house or a plot allotted by the Delhi Development Authority on an area of even less than 65 sq. mts. Shall not, however, be eligible for allotment.”

(emphasis supplied)

27. The Rules came into operation in September, 1981. Rule 17 of the Rules, which provides for general restrictions to allotment for residential purposes, reads as under:

“17. General restriction to allotment for residential purposes.

- Notwithstanding anything contained in these rules, no plot of Nazul land shall be allotted for residential purposes, to an individual other than an individual referred to in clause (i) of rule 6, 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 such individual, own in full or in part, on lease-hold or freehold basis, any residential land or, house or who has been allotted on hire-purchase basis any residential land or house in the Union territory of Delhi:

PROVIDED that where, on the date of allotment of Nazul land,-

(a) the other land owned by or allotted to such individual is less than 67 square metres, or

(b) the house owned by such individual is on a plot of land which measures less than 67 square metres, or

(c) the share of such individual in any such other land or house measures less than 67 square metres, he may be allotted a plot of Nazul land in accordance with the provisions of these rules.”

(emphasis supplied)

28. A comparative reading of eligibility condition under the Rohini Scheme and Rule 17 of the Rules shows that the Rohini Scheme provides for threshold of 65 sq mtrs whereas the Rules provides the threshold of 67 sq mtrs. As per settled law the Rules which are statutory in character will prevail over the eligibility stipulated in the Rohini Scheme. Reference in



this regard may be had to the decision in **DDA vs. BB Jain, 2013 SCC OnLine Del 891**. In the said case a controversy had arisen as to whether the respondent therein would be entitled to an allotment of plot under the Rohini Residential Scheme, 1981 despite he having been allotted a Janta Flat constructed by the DDA on an area measuring less than 67 sq. mtrs. Though, eligibility conditions stipulated in the Rohini Scheme specifically provided that persons who own a house or a flat allotted by DDA on an area of less than 65 sq. mtrs shall not be eligible for allotment but there was no such stipulation in Rule 17 of the Rules. A Division Bench of this Court has held that the eligibility of the registrants under the Rohini Residential Scheme, would be governed by the provisions of Rules and not the provisions of the scheme to the extent the provisions of the scheme are contrary to the statutory provisions contained in the rules, therefore, it would be immaterial whether the existing allotment was made by DDA or by some other agency or purchased by the allottee from the open market. Rule 17 of the Rules admittedly does not debar the allottee from DDA from allotment of land by DDA, in a case where the area of the land/plot already owned by or allotted to him does not exceed 67 sq mtrs. The Court also observed that applicability of the Rules has to be seen with reference to the date of allotment made by the DDA, irrespective of the fact that the Rohini Scheme was launched in February, 1981 i.e. prior to the Rules coming into operation in September, 1981. The relevant excerpts from the decision reads as under:

“10. It would thus be seen that in view of the above-referred decision of this Court, the issue involved in these appeals is no more res integra. The learned counsel for the appellant, however, contended that in none of these cases, the existing allotment was made by DDA, whereas in the case before this Court the existing



*allotments were made by DDA and if the terms and conditions contained in Rohini Residential Scheme, 1981 are not applied, it would result in a person getting allotment of more than one plot/flat from DDA. In our view, the contention is misconceived in law. **The issue involved in this case is as to whether the allotments made under Rohini Residential Scheme, after coming into force of Nazul Land Rules would be governed by the provisions of the Scheme or by the provisions of the statutory Rules and the view taken in the above-referred case was that it is Nazul Land Rules which would govern such allotments. Once it is accepted that the eligibility of the registrants under the Rohini Residential Scheme, would be governed by the provisions of Nazul Land Rules and not the provisions of the Scheme to the extent the provisions of the Scheme are contrary to the statutory provisions contained in the Rules, it would be immaterial whether the existing allotment was made to DDA or by some other agency or it was free hold property purchased by the allottee from the open market. Rule 17 of the Nazul Land Rules admittedly does not debar the allottee from DDA from allotment of land by DDA, in a case where the area of the land/plot already owned by or allotted to him does not exceed 67 square metres.***”

(emphasis supplied)

29. Rule 17 of the Rules does not specifically deal with the flats in the multi-storeyed building, however, a meaningful reading of clauses (b) and (c) of proviso to Rule 17 in conjunction with following excerpt from the eligibility condition as stipulated in the Rohini Scheme - ‘*if, however, the individual share of the applicant in the jointly owned plot or land under the residential house is less than 65 sq. Mtrs, an application for allotment of plot can be entertained*’ - would be that for ascertaining the eligibility of allottee/owner of a flat in multi-storied building, the proportionate share of such flat in the plinth area under the flat has to be taken into consideration,



and in case the share of flat is less than 67¹ sq mtrs, the allottee/owner of the flat will be entitled to be allotted a plot or a house or a flat under the Rohini Scheme. Reference in this regard may be had to the decision of the Hon'ble Supreme Court in ***Jitender Pal Bhardwaj*** (supra) wherein the Hon'ble Supreme Court in the context of the eligibility criteria under the Rohini Scheme observed that where an individual share in the land on which the building stands is less than 65 sq mtrs, he is not debarred from securing allotment from DDA. The relevant part of the decision reads thus:

“7. When a person acquires a flat in a multi-storeyed building, what he gets is co-ownership of the land on which the building is constructed and exclusive ownership/long-term lease of the residential flat. As per Clause 1(ii), where the individual share in the land on which the building stands, held by the allottee is less than 65 sq m, he is not barred from securing allotment from DDA. The other interpretation is that if the measurement of the flat is less than 65 sq m and the allottee owns only an undivided share in the land, corresponding to such flat, the benefit of exemption would be available to the applicant.”

(emphasis supplied)

30. Likewise, the Coordinate Bench of this Court in ***Shail Shukla*** (supra), relying upon the decision of the Apex Court in ***Jitender Pal Bhardwaj*** (supra) had also observed as under:

“14. The learned counsel for the petitioner submits that the proportionate share of land in favour of the petitioner is 17 sq. mtrs. It is an admitted case that as long as the area/land under the exclusive ownership of the applicant is less than 67 sq. mtrs, the applicant is eligible for allotment under the Rohini Scheme from DDA. Reliance is further placed upon the judgment of this court in DDA v. Jitender Pal Bhardwaj, (2010) 1 SCC 146:-

XXXXX

XXXXX

XXXXX

¹ As provided in Rule 17 of the Rules



*15. From the above judgments relied upon by the learned counsel for the petitioner, it is clear that the eligibility rule of the Rohini Scheme cannot run contrary to the Nazul Land Rules. **The Nazul Land Rules permit an individual to apply for allotment and own a plot under the Rohini Scheme even if the individual has another house/plot of land, provided the same is under 67 sq. m.***

(emphasis supplied)

31. Indubitably, the flat of the petitioner is on third floor, and there are four floors including the flat of the petitioner, which have been constructed on a plinth area of 90 sq mtrs, thus, the proportionate share of the petitioner in the plinth area is approximately 22.5 sq. Mtrs. Therefore, the individual share of the petitioner being less than 67 sq mtrs, he is eligible for allotment of plot under the Rohini Scheme.

32. The controversy can be viewed from another angle. Insofar as the Rohini Scheme is concerned, it is not in dispute that the DDA *vide* its letter dated 14.09.2018 had sought approval of the Ministry of Housing and Urban Affairs for relaxing the eligibility criteria in respect of the Rohini Scheme. In response to DDA's such request, the Central Government taking into account the special circumstances of inordinate delay in delivery of properties of Rohini Scheme by DDA, relaxed the provisions of Rule 17 as per the provisions of Rule 45(2)(b) of the Rules, thereby clarifying that the relaxation is available to the registrants of Rohini Scheme if they have bought residential properties on or after 25.04.1986. The said Office Memorandum reads as under:

*No. K-20014/2018, DD.III
Government of India
Ministry of Housing and Urban Affairs
(Delhi Division)*

Director (RL)



Diary No. 4262

Nirman Bhawan, New Delhi

Dated: 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 in the eligibility criteria in the respect of Rohini Residential Scheme-1981 .

1. The undersigned is directed to refer to DDA's letter No. PS/Dr.(RL)2018/DDA/130 dated 14.09.2018 on the subject cited above, seeking approval of the Ministry for relaxation in the eligibility criteria in respect of Rohini Residential Scheme-1981.

2. DDA had sent the proposal 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-1981.

3. DDA launched Rohini Residential Scheme pm 09.02.1981 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 25.04.1981. The allotments 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-1981 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 Rules 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 cause of inordinate delay in delivery of properties under the aforesaid scheme by DDA and had 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 bought residential properties on or after 25.04.1986.

8. This issues with the approval of Competent authority.

(emphasis supplied)

33. The petitioner's wife having purchased the flat in question in the year 2005 i.e. after the cut-off date of 25.04.1986, the same is covered by the relaxation of Rule 17 granted by the Central Government, but an objection raised by Ms. Tripathy is that the cancellation letter dated 09.02.2017, being prior to the Office Memorandum dated 15.11.2018, the benefit of the said Office Memorandum will not be available to the petitioner.

34. The above submission is to be noted to be rejected. This Court finds that the show cause notice dated 21.09.2016, as well as, impugned cancellation letter dated 09.02.2017 was kept in abeyance by the DDA *vide* its communication dated 28.09.2017 to await the decision of the competent authority on the aspect of violation of Rule 17 of the Rules. It is not the case of the DDA that the communication dated 28.09.2017 was recalled till the issuance of Office Memorandum dated 15.11.2018 or any time thereafter. In that view of the matter, the benefit of Office Memorandum dated 15.11.2018 shall enure to the petitioner as well, since cancellation order was in abeyance till said Office Memorandum came to be passed.



35. Insofar as submission of Ms. Tripathy that there was a concealment on part of the petitioner as the petitioner at the time of allotment of plot had not disclosed the purchase of flat in the name of his wife in a cooperative society, in the year 2005, suffice it to say that the petitioner had disclosed the purchase of said flat *vide* his letter dated 05.12.2015. Non-disclosure at earlier point of time does not assume any relevance in the present case, nor could it be termed as concealment, as the same has not given any undue/unfair advantage to the petitioner, especially when this Court has come to a conclusion that the petitioner was entitled for allotment of plot under the eligibility conditions of Rohini Scheme, as well as, under Rule 17 of the Rules, notwithstanding the purchase of aforesaid flat in the name of his wife.

36. In view of the above, the petition deserves to be allowed. Accordingly, the cancellation letter dated 09.02.2017 is quashed and set aside and a writ of mandamus is issued directing the respondents to hand over possession of the plot bearing no. 151, Pocket C-4, Sector 34, Rohini, Delhi, measuring 60 sq. mtrs. allotted to the petitioner under the Rohini Scheme, and execute the lease deed in favour of the petitioner within a period of six weeks from today.

37. The petition along with pending applications, is disposed of.

VIKAS MAHAJAN, J

JULY 01, 2025/dss