

**JUSTICE VIKRAMAJIT SEN**

Supreme Court of India (Retd.)  
E-13, Kalindi Colony,  
(Adjacent to Maharani Bagh),  
New Delhi-110 065.  
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PROCEDURAL ORDER NO. 1 DATED 20.2.2016

Okhla Enclave Plot Holders Wei.Assen. .... Petitioner

Versus

.....Respondent

Union of India &Ors.

Petitioner: Mr.Piyush Shanna, Adv., Mr. S.S. Bhandari, President, Mr. G.S. Rana, Treasurer  
Mr.P.Narasimhan, Adv. for Durga Builders

Mr.KishoriLal, Genl.Secretary of Durga Builders

Mr.Nitin Mishra, Adv.forM r.AnkurSood,AORfor present Management of  
DurgaBuilders Pvt.Ltd.

Respondent: Dr. Monika Gusain, Adv. for State of Haryana .

Schedule of steps to be taken:

In consultation with the learned counsel for ,the parties at the hearing held on 20hFebruary, 2016, the schedule for further proceedings is directed as under:

On or Before	Steps to be Taken
5/3/16	Statement of Claim/s to be filed by the ClaimanUs
19/3/16	Framing of issues.

Learned counsel for the parties, along with their representatives of the Associations – Okhla Enclave Plot Holders Welfare Association and Durga Builders Plot Holders Association, on the one part, Mr. Nitin Mishra, counsel on behalf of Durga Builders Private Ltd., and Dr. Monika Gusain, counsel for Director General, Town and Country Planning, Haryana, Chandigarh (DGTCP) have explained their respective cases. The following directions are passed on this, prima facie, explanation of the dispute in hand:-

(i) The locus standi of Mr. Mishra's client is strongly contested and refuted by Mr. Sharma and Mr. Narasimhan, learned Counsel for the parties. Mr Mishra submits that all previous proceedings and Reports, especially of the Local Commissioner shall not be disputed by his clients.

(ii) DGTCP shall cause to be issued, within two weeks from date an Advertisement in Hindi/English newspaper 'DanikJagran' having wide circulation in Haryana, inter alia, that persons interested in the present dispute should contact the DGTCP. Copy of the Advertisement be also pasted at all relevant sites. In addition, informing that the all concerned parties of the holding of today's proceedings as well as that the Tribunal shall next assemble on 19.3.2016 at 11 AM.

(iii) It appears that some 'encroachers' have approached the civil courts and have obtained injunctions against demolition of constructions carried out by them in the site. It is only to be expected that the State of Haryana is one of the parties, details of litigation that is pending in this regard should be collated by the DGTCP and forwarded to the Tribunal within three weeks from today.

(iv) DGTCP shall also cause to be filed copies of all Reports filed in the context of the present dispute in the Hon'ble Supreme Court, within three weeks.

(v) Mr. Mishra states that the dispute between the erstwhile management of Durga Builders, i.e. representatives of R.K. Nanda and consequent upon his death, his legal representatives and/ or his

successors has been decided in favour of his client by the Company Law Board, Northern Region, Delhi, by Orders dated 11.3.2014. He also submits that an appeal has been preferred by the erstwhile management which is pending in the Hon'ble High Court of Delhi, but in which proceedings no interim orders had been passed till date. He, therefore, contends that presently there is only a judicial determination in favour of his client. He is directed to supply to the Tribunal a copy of the said orders by the CLB, as well as updated Report of Companies Records (ROC) which according to him discloses that his clients are the present management of Durga Builders.

(vi) Parties are directed to forward suggested Issues within three weeks from today.

(vii) The Tribunal shall next assemble on 19-3-2016 at 11 AM at a venue to be arranged for by counsel for the parties.

(viii) It has been indicated that the arbitral fees shall be Two Lakhs per hearing, together with administrative expenses fee, presently to be borne equally by the aforesaid four parties. The proportionate fees shall be remitted within three days from today.

### **Practice Directions**

1. Each pleading will be accompanied by documents in support of the case pleaded by the party. Hard copy shall be typed on paper of A-4 size, and shall be spiral bound.
2. Rejoinder is not necessarily to be filed. If filed, it shall remain confined only to such para of the Statement of Defence the averments madewherein need to be explained by raising necessary pleadings.
3. Filing by either party of any pleading, document, application and communication, etc. shall be deemed to have been effectively done only upon its having been delivered to the Tribunal and copy having been previously or simultaneously delivered to the opposite party. However, hard copies of any filing with the Arbitrator may be done on or before the next date of hearing so long as all such filing is sent by email to the Arbitrator. All pleadings/documents must also be served on the opposite party in the e-format.
4. Brief applications / communications to the Tribunal to be made by e-mail followed by hard copy of the Application to be given at the time of hearing of the Application. All substantive pleadings, applications and documents shall necessarily be filed as hard copies along with a soft copy sent by mail.
5. With consent of counsel it is agreed as under in respect of Cross Examination:

- a) Cross examination, if any, would be recorded in narrative and contentious questions may be in question/answer form.
  - b) The practice of putting the respective cases of parties to the witnesses in the form of suggestions is dispensed with.
  - c) It is not necessary that questions must be put with regard to each averment/statement made in the affidavit of evidence of the witness(s).
  - d) Not putting questions on any aspect of the affidavit of the witness would not amount to admission on that aspect.
  - e) No questions are required to be put with regard to interpretation of the contract as the same is a matter of determination by the Tribunal at the stage of final arguments.
  - f) Any statement/averment by a witness with regard to interpretation of the contract in his affidavit of evidence will be of no consequence.
  - g) No questions are required to be put to witnesses to merely confirm the contents of a document.
6. Adjournment, if any, may only be requested at least 2 weeks in advance.
  7. Communications and orders by the Tribunal to the parties will be made by e-mail on the e-address given hereunder, email communications shall be treated as effective communication to the Tribunal and the parties and the learned counsel.

For Petitioner: Sharma.piyush819@gmail.com; advocatenitin@gmail.com;

For Respondent: drmonikaqusain@qmail.com

8. Next hearing:

The Tribunal shall next assemble on 19-3-2016 at 11 AM for framing of Issues as well as on the application under Section 16 and 17 of the Act. Both the parties are directed to exchange draft Issues and to file the Affidavit of Admission/Denial on or before that date.

9. DECLARATION BY THE ARBITRATOR

There are no circumstances or reasons which are likely to give rise to the absence of independence or of the impartiality of the Arbitrator, or to affect his ability to devote sufficient time for the arbitration.

10. Fees of the Arbitrator:

As per Schedule 4 of the Act, parties are required to deposit Rs.2 Lac each per hearing on account, within three days.

11 Venue for the meeting:

With the consent of both the parties it is decided that the venue for the Arbitration will be Delhias per common arrangement made by Counselfor the parties.

(Vikramajit Sen)  
Arbitrator

