

**BEFORE JUSTICE (RETD.) VIKRAMAJIT SEN
THE SOLE ARBITRAL TRIBUNAL**

In the matter of:

Okhla Enclave Plot Holders Welfare Association & Ors. Petitioners

Versus

Union of India & Ors. Respondents

Present:

Shri Piyush Sharma, Advocate with Shri R. K. Trivedi, President and Shri M.P. Pandey, General Secretary of Okhla Enclave Plot Owners Welfare Association (Regd.).

Shri Sudarshan Rajan Advocate with Shri Kishori Lal, General Secretary of Durga Builders Plot Holders Welfare Association (Regd.).

Shri Rahul Malhotra and Shri Rishu Kant Sharma, Advocates with Shri Jitender Kumar Goel, Secretary, Durga General Plot Holders Welfare Association.

Shri Shivom Garg and Shri Ramashankar, Advocates for Shri JK Kalra & Ors.

Shri Vikrant Yadav, Advocate for Mr. A.J. Ansari & Ors.

Dr. Monika Gusain, Advocate on Record, for the State of Haryana with Shri Sanjeev Mann, DTP Faridabad and Shri N.S. Chauhan STP Faridabad

Shri Satvik Varma, Shri Gaurav Ghose, Ms. Joveria Sabbah and Shri Mohit Mudgal Advocates for Durga Builders Private Limited

**PROCEDURAL ORDER NO. 22
DATED 4th OCTOBER 2018**

1. Shri. N.S. Chauhan, STP Faridabad has filed a brief Status Report dated 4th October 2018. As per the Report, a total of 1083 applications have been received in the Office of Senior Town Planner, HUDA Complex, Faridabad in response to the advertisement dated 4th August 2018. It has been informed that the scrutiny of the applications started on 10th September 2018 and so far around 197 applications have been scrutinized by the Scrutiny Committee.
2. Written Submissions along with an Affidavit dated 4th October 2018 have been handed over during the course of the hearing on behalf of Durga Builders Private Limited.
3. Shri Rahul Malhotra, Ld. Counsel for Durga General Plot Holders Welfare Association has moved an Application dated 24th August 2018 on behalf of Durga General Plot Holders Welfare Association seeking issuance of urgent directions/clarifications. Vide the Application, the following reliefs have been sought-
 - i. *issue directions to the DTCP Haryana not to ask the Plot Holders to submit an affidavit to the effect that the Colonizer has neither sold the plot allotted to them to any third party nor created any Third-Party rights over the same;*
 - ii. *issue directions to the Scrutiny Committee not to follow the same Performa for the scrutiny of the plot holders of the General Category as was followed at the time of scrutiny of NPNL Category*
 - iii. *extend the time for the members of the Applicant Association to submit their documents for scrutiny of the documents, till after the disposal of the present application;*

4. It has been submitted that vide its advertisement dated 4th August 2018, the State of Haryana has sought a specific affidavit from the general category claimants deposing that *'the Colonizer has neither sold the plot allotted to them to any third party nor created any Third-Party rights over the same'*. It has been urged that it is not logical or fair for the State of Haryana to insist for an undertaking/Affidavit to this effect as the claimant cannot affirm or guarantee whether the Colonizer created any third-party rights in their plots.
5. It has been urged that the claimants from the General category are the ones who bought plots from the open market and have paid the entire sale consideration. Hence, the proforma which was used and relied upon for scrutiny of claims of the NPNL category cannot be applied to the scrutiny of applications of the General category. It has been pointed out that stipulations like multiple plot booking from one family cannot be used to disentitle claims from the same family who have paid full consideration for the plots in the General category. The Ld. Counsel for Durga General Plot Holders Welfare Association has sought that appropriate instructions be given to the Scrutiny Committee in this regard.
6. After discussion with Shri Sanjeev Mann, DTP Faridabad, it is directed that the Scrutiny Committee shall not insist on an affidavit from the Claimant affirming that *'the Colonizer has neither sold the plot allotted to them to any third party nor created any Third-Party rights over the same'*. The Scrutiny Committee is further directed that it should not refuse to scrutinize any claim or to disentitle any person who has paid the full sale consideration only on the ground that multiple claims/applications have been filed by members of the same family.

7. The State of Haryana is directed to give its recommendations on the Report dated 28th October 2017 on the NPNL category within one week. Ld. Counsel appearing for Durga General Plot Holders Welfare Association has sought an opportunity to file their objections to the Report on the NPNL category. A week is granted to do the needful.

8. Vide Order dated 13th July 2018 it was directed that for scrutiny of claims of the General and EWS category the composition of the Scrutiny Committee will be as follows-
 - Senior Town Planner, Faridabad (Chairman)
 - District Town Planner, Faridabad
 - Representative of Deputy Commissioner, Faridabad
 - Representative of the Colonizer of Durga Builders Pvt. Ltd.
(*subject to further orders of the Tribunal*)
 - Representative of the concerned Plot Holders' Association

9. It is clarified that the Scrutiny Committee shall ensure that at the time of scrutiny of claims of the General category the Scrutiny Committee shall have a member of the Plot Holders' Association for the General category.

10. The Scrutiny Committee is directed to apprise the Tribunal of the status of the process of scrutiny every week.

11. It is directed that the State of Haryana should reconsider its untenable stand regarding taking over the Project for the reasons elucidated in the previous Order. It is reiterated that that in my view the State is obligated to take over the land as well as the Project, since the vital interests of citizens numbering approximately 5000 is endangered. This is especially so since

these citizens are not affluent, and the problems have arisen because the State has not been watchful of their interests.

12. The next date in the matter shall be fixed as per Orders of the Hon'ble Supreme Court.



Justice (Retd.) Vikramajit Sen
Sole Arbitrator