

**BEFORE JUSTICE (RETD.) VIKRAMAJIT SEN
THE SPECIAL COMMITTEE**

In the matter of:

Okhla Enclave Plot Holders Welfare Association & Ors. Petitioners

Versus

Union of India & Ors. Respondents

Present:

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

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

Shri Ranbir Yadav, Advocate for Okhla Enclave Joint Action Committee

Shri Rajat Agnihotri, Advocate for Mr. R.K. Bisht & Ors.

Shri Vikrant Yadav, Advocate for 18 Applicants

Shri Keshav Hegde and Shri Prem Prakash Kanwer Advocate for Durga Builders Plot Booking Holders Forum

Shri Rahul Malhotra and Shri R K Sharma, Advocates for Durga General Plot Holders Welfare Association.

Shri Ramashanker and Shri Shivom Garg Advocates for Shri JK Kalra & Ors.

Ms. Garima Singh Yadav, Advocate for Shri Anil K. Singh & 14 others

Shri Sajan Narain, Advocate for Okhla Enclave Plot Holders (Allottee) Forum

Dr. Monika Gusain, Advocate on Record, for the State of Haryana with Shri Ravi Sinha, STP Faridabad and Ms. Renuka Chauhan DTP (P) Faridabad

PROCEDURAL ORDER NO. 25
DATED 17th JANUARY 2020

1. The following submissions have been handed over by the Committee –
 - a. A list of 18 Applicants with their contact details by Advocate Vikrant Yadav. Mr. Kishori Lal has assured the Committee that consequent upon the request of Mr. Yadav, these Applicants will be included in Durga Builders Plot Holders Welfare Association (Regd.)
 - b. A “*List of Plot Holders*” with names and contact details of 48 Applicants by Mr. Vijay Sharma, Advocate
 - c. A set containing 73 vakalatnamas in favour of Advocates Rama Shanker and Shivom Garg
 - d. A list of 16 “*Commercial Plot Holders*” along with their contact details and vakalatnamas in favour of Advocate Rajat Agnihotri
 - e. A list of 68 “*Residential Plot Holders*” along with their contact details and vakalatnamas in favour of Advocate Rajat Agnihotri
 - f. A vakalatnama on behalf of Mr. KS Cheema, Okhla Enclave Shops and Commercial Plot Holders Society (Regd.) in favour of Advocate Sajjan Narain
 - g. A vakalatnama by 15 applicants in favour of Advocate Garima Singh Yadav along with the contact details for the 15 applicants.

2. Shri Vijay Sharma, Advocate has appeared on behalf of 50 Applicants. He has submitted that these Applicants could not submit their claims before the Scrutiny Committee within the stipulated deadline and their claims could not be scrutinized. It his case that these Applicants are otherwise

genuine Claimants. Vide Order dated 26th June 2017 and 4th August 2017, the Committee had expressed its opinion on this aspect.

3. It has been informed by the Dr. Monika Gusain, Ld. Counsel for the State of Haryana that an intimation has already been sent to the Headquarters in Panchkula for filing an appeal against the Judgment dated 2nd July 2019 in the matter of *Smt. Neha and Sh. Phitvival Singh versus Durga Builders Pvt. Ltd. & Ors.* CS/117/2015. The Committee directs that a written confirmation in this regard shall be filed before the next hearing.
4. After detailed discussions at the last sitting, with a view to accommodate as many Claimants as possible, the State was directed to prepare a new Layout Plan with plots admeasuring 80 square yards. The representatives for the State of Haryana, the DTP has submitted that if the Layout Plans are prepared with 80 square yards then the density is increasing much above the statutory limit.
5. It has also been highlighted by the State that large parcels of land stand encroached as on date. The STP submitted that repeated efforts have been taken by the State to remove the encroachments. Around 187 acres of land is available with the State for the purpose of carving out the plots, after discounting the encroached area. As per their calculations, around 2150 plots can be carved out of the existing land as on date. Ld. Counsel had submitted that encroachers should not effectively be bestowed with rights which the law-abiding plot holders/Claimants before the Committee. The Committee clarifies that it shall proceed on the basis that the encroached land is not under any possession and will therefore should not be taken into account for calculating the density. Density should be calculated keeping

in perspective the plot holders duly recognized by the Committee. It remains the responsibility of the State to remove the encroachment.

6. In this regard detailed submissions have been made by Shri Rahul Malhotra, Ld. Counsel for Durga General Plot Holders Welfare Association that vide Hon'ble Supreme Court vide its Judgment dated 3rd October 2019 had directed that plot sizes for all categories may be reduced, barring the general category plots, for adjusting maximum number of Claimants. He has further submitted that the Claimants in the general category are mostly those people who had bought the plots from open markets, after paying hefty sale considerations unlike the Claimants of the NPNL or EWS categories.
7. Shri Piyush Sharma, Ld. Counsel for Okhla Enclave Plot Owners Welfare Association (Regd.) has opposed the aforesaid submissions. He has relied on paragraphs 39, 40, 41, 42 and 46 of the Judgment dated 3rd October 2019 to argue that the Hon'ble Supreme Court has directed that adjustments of the plot areas will have to be done amongst all the plot owners, which includes the NPNL, General, EWS and Commercial category of plot holders. This submission is also echoed by Shri Sanjay Jain, Ld. Counsel for Durga Builders Plot Holders Welfare Association (Regd.).
8. Shri Rahul Malhotra has placed suggestions before the Committee, which in his opinion, can help to accommodate maximum number of Claimants. Such suggestions were also filed in writing before the Committee on 10th January 2020. Shri Sanjay Jain has also filed a "*Category – wise & Plot-wise Summary*" which in his opinion, can accommodate almost all the Claimants before the Committee. The Committee has also suggested that since the available land stands reduced, the parties may consider reducing

the community resources (such as roads, schools etc.) proportionately and prepare a new Layout Plan. It has been mutually decided that the Learned Counsel for the Associations/Claimants shall discuss all their concerns/suggestions/recommendations with the State in the office of the STP, Haryana on **29th January 2020 at 11 AM**. The Committee expects that the matters shall be discussed in a fruitful manner with an intent to resolve the matter.

9. Vide Order dated 15th November 2019, the Committee had directed the State to file its written recommendations to the Scrutiny Report of the NPNL category. A 2-page letter by the Office of District Town Planner, Faridabad with 4 annexures was filed on behalf of the State, which the State insists are the written recommendations as directed by Order dated 15th November 2019. The Committee has perused the letter and the annexures. The State is directed to file its recommendations to the Scrutiny Report prepared for the NPNL category which shall positively include the recommendations of the State relating to the category of the Applicants which are found to be eligible. Such recommendations shall be filed at least 3 days before the next date of hearing. This is the final opportunity.
10. It also clarified to all concerned that the Committee shall adjudicate on the Scrutiny Report of the NPNL category as well the entitlement of plots in the NPNL category at the next date of hearing. The Learned Counsels are requested to limit their submissions on this aspect.
11. At the last hearing, it was decided that the fee of Rs. 1,50,000/- shall be apportioned equally amongst each of the Claimants appearing before the Committee. It has been noticed that although submissions are filed with the Committee via post and email on behalf of alleged Claimants but none

appears before the Committee in support of those submissions/Claimants at the hearings or before the Committee. The Bills of the Committee are also not being paid by such Claimants. This is most unfair for the Claimants who have been regularly appearing and pursuing the matter before the Courts/Committee. It is clarified that submissions/filings will be considered by the Committee, subject to payment of the proportionate fees of the Committee by the Claimant.

12. The Tribunal shall next convene on 12th February 2020 at 4.15 PM. The venue be arranged and intimated to the Committee within 15 days.

A handwritten signature in black ink, appearing to read 'Vikramajit Sen', is written on a light-colored rectangular background.

Justice Vikramajit Sen (Retd.)