

JUSTICE VIKRAMAJIT SEN

Retired Judge, Supreme Court of India

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PROCEDURAL ORDER NO. 5 DATED 7-05-2016

Okhla Enclave Plot Holders Welfare Association & others Petitioners

Versus

Union of India and others Respondents

PRESENT: Shri Piyush Sharma, Advocate, and Shri M.P. Pandey Office-Bearer of Okhla Enclave Plot Owners Welfare Association (Regd)

Shri Sanjay Jain, Advocate, and Shri Kishori Lal Office-Bearer of Durga Builders Plot Holders Welfare Association (Regd)

Shri Rahul Malhotra and Tanuj Arora Advocates of Durga General Plot Holders Welfare Association

Shri Mohit Chaudhary, Nitin Mishra and Damini Chawla Advocates for Durga Builders Private Limited

Dr. Monika Gusain, Advocate on Record for the State of Haryana with S/Shri Nirmal Chand Dy. Supt., Pawan Gupta J.E. and Aman Kumar (Assistant) DGTCP Haryana

Shri Keshav Hegde Advocate for Durga Builders Plot Booking Holders Forum

Shri Ramashankar Advocate

Shri Vikrant Yadav Advocate

1. In terms of earlier order, an Inspection was carried out on 5th May, 2016 but some grievances were raised by the counsel appearing for Durga Builders Private Limited. It is accordingly directed that a detailed Joint Survey be undertaken by the officers of Haryana Government/DTCP and that of the Durga Builders Private Limited to determine the extent of encroachment over the licensed land in Phase I and Phase II, including the details of occupants. It shall also be ascertained by what authority an occupant is occupying the land including verification of the entitlement in hands of occupier. The State shall ensure cooperation from local administration and adequate police presence, so that the detailed Joint Survey can be carried out peacefully, commencing on the dates to be mutually decided between the officers of Haryana Government/DTCP and that of Durga Builders Private Limited. The exercise of completing the Joint Survey is to be finished before the next date of hearing. Mutually decided dates are to be conveyed to the Office-bearers of the Okhla Enclave Plot Owners Welfare Association (Regd.) and other Associations/Forums, who may, if they deem fit, be present at the site.
2. Haryana Government/DTCP and Durga Builders Private Limited are directed to file respective Survey Reports before next hearing, together with their suggestion regarding remedial measures which may be considered and if found expedient, implemented. Haryana Government/DTCP is also directed to provide the details of occupants, who are occupying the plots after allegedly getting their plans sanctioned.
3. In order to move forward in these proceedings, the parties have agreed that a Cut-off date be fixed to determine the entitlement of the genuine plot holders. After deliberations it has been agreed that subject to verification and production of sufficient evidence, the Cut-off date applicable to determine entitlement of each plot-holder would need to meet the twin conditions, namely-
 - Plot holders should have made bookings along with entire payment towards cost of land prior to 07.04.1997.
 - Further, such plot holders should have paid/deposited the entire development charges with the Haryana Government upto 31.12.1999, in terms of Hon'ble Supreme Court order dated 02.12.1999.

This procedure will not be construed as an abandonment of the objection of some of the parties pertaining to the locus standi of Durga Builders Private Limited.

4. However, the plot holders who have made bookings along with the entire payment towards cost of land prior to 07.04.1997, but had not made payments towards the Development charges in terms of Supreme Court order dated 02.12.1999, can be considered provided they are willing to pay the Development charges as would be required on the date of carrying out the actual development, an estimate of which would be provided to the Hon'ble Arbitral Tribunal for its approval.
5. It is also agreed that the multiplicity and duplicity of claims i.e. more than one claim from one family, will not be considered as eligible. Further, if any person is already in occupation of a plot illegally or by encroachment he will similarly not be considered by this Tribunal for any further allotment.
6. Haryana Government/DTCP is directed to collate and submit a list of pending litigation in respect of licence land in Phase I and Phase II.
7. Shri Malhotra reiterated that as per extant statutory Rules pertaining to NPNL category the number of plots are restricted to 25% of the aggregate plots, and this may be an inflexible requirements. Shri Chaudhary again drew attention to the expediency of verticle construction in order to enable the maximum number of allottees to be accomodated. The Tribunal emphasised that the State of Haryana should consider increasing the density stipulations, since the present situation on the site is, in large measure, the result of the inactivity of the State to stop encroachments. It was also brought to the notice of the Tribunal that there is some land which is unproductive and unusable, adjacent to the present site. The State of Haryana will make necessary enquiry and report on the matter on the next assemblage of the Tribunal and the parties.
8. The Tribunal will next assemble on 4-6-2016 at 11am.

Justice Vikramajit Sen (Retd)
Sole Arbitrator appointed by the
Hon'ble Supreme Court of India