

# JUSTICE VIKRAMAJIT SEN

Former Judge of the Supreme Court of India

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## PROCEDURAL ORDER NO. 8 DATED 03-09-2016

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 Venkata Subramaniam TR, Advocate and Shri Kishori Lal Office  
Bearer of Durga Builders Plot Holders Welfare Associations (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 Shri Anil Dabas, DTP Haryana and Pawan Gupta J.E.

Shri Keshav Hegde Advocate for Durga Builders Plot Booking  
Holders Forum

Shri Ramashankar, Mr. Soumyadit Pani and Mr. Shivam Garg,  
Advocates for JK Kalra & Ors.

Ms Suman Lata Katiyar, Shri Rajat Agnihotri, Shri Krishna Gogna  
and Shri Deepak Vohra, Advocate for Usha Khattar & Ors.

Shri P.S. Dutta, Senior Advocate with Shri Rahul Malhotra, Sh. Tanuj  
Arora and Shri Komal Sorout, Advocates for Durga General Plot  
Holders' Welfare Association

Shri Ripu Adlakha and Ms. Isha Tyagi, Advocates for Edenburg Plot  
Holders' Association

Shri Vikrant Yadav, Shri A .J. Ansari and Shri Rajeev Gurung,  
Advocates for Ritu Budhiraja & Ors.

1. This Tribunal, suo motu, makes the following amendments in the previous Procedural Order No. 7 dated 23-07-2016, and thus Para No. 1 of the said Order is to be read as follows:

“A topographical survey has been reported to have been carried in terms of order dated 07.05.2016 through Sakshi Project Consultancy, as per which maps have been prepared for Phase I and Phase II lands. These maps indicate that the total vacant land available at Phase I is 124.529 acres and at Phase II is 50.422 acres. **This is disputed by Mr. Anil Dabas who submits that as per the Government Revenue Records the available vacant land in Phase II is 61.5 acres whereas Mr. Chaudhary contends that it is less than 50.422 acres i.e. around 45 acres only.** Mr. Anil Dabas further submits that the area admeasuring 4.891 acres marked as encroached area in the map presented by the Builder is also vacant. He also points out that some allottees have constructed boundary walls in the said area but the same has been done as per the permission granted by the Hon'ble Court.”

Further Para No. 2 of the previous order will be read as follows:

“After much deliberation, it has been further decided that to undertake allotment it is imperative that a list of eligible allottees is first drawn up as it appears that in a lot of cases, multiple Sale Deeds or Agreements have been wrongfully and illegally executed on the basis of a single allotment. In such circumstances, it has been agreed that the DGTP along with a representative from the Builder and a representative from the concerned Association will invite representations/applications along with the allotment documents from all the claimants/allottees and **the Committee** will examine and scrutinize these applications, as per all the existing rules and guidelines, to identify genuine allottees and prune out the cases of wrongful/multiple allotments. For carrying out the said exercise, the Builder has suggested a Proforma according to which the representations can be examined to decide eligibility, which has been accepted by the DGTP and the Associations. However, the parties are at liberty to modify the said Proforma as per para 5 of this order.”

2. In furtherance of the directions issued by this Tribunal to the DTCP, the DTCP has submitted a Status Report before this Tribunal wherein it has been stated that as submitted on the previous occasion, the office of the District Town Planner, Faridabad maintains that the available vacant land in Durga Builder Phase- II is 61.50 acres and the same report was also submitted before the Hon’ble Supreme Court and in further compliance of the previous order, the District Town Planner has directed the Security Incharge of the colony to keep a vigil at the site.

It is further informed that in accordance to the directions issued, the Office of the Director General, Town & Country Planning, Haryana had issued Public Notices on 18.08.2016 in The Tribune inviting representations in the NPNL

category within 4 weeks of the date of publication, between 10 AM to 2 PM in the Conference Room, HUDA Building, 2<sup>nd</sup> Floor, Sector 12 Faridabad. In this regard, vide order dated 16.08.2016, the Director General, Town & Country Planning, Haryana, Chandigarh has set up a committee for examining/scrutinising the representations, which will include the following:-

- Senior Town Planner, Faridabad (Chairman)
- District Town Planner , Faridabad (Member)
- Representative of Deputy Commissioner, Faridabad (Member)
- Representative of the colonizer (Member) of Durga Builders Pvt. Ltd.
- Representative of the concerned Association (only where documents are through Association)

It has been further submitted that as the process of scrutinising the documents and the representations will require atleast 2 more months.

It has also been submitted that in accordance to the directions issued on the last occasion, the office of the DTP tried to contact Mr. Mohit Chaudhary for providing them with the Paper Books of the matters pending in the various civil courts, but no representative came forward from the side of Durga Builders. In response, Mr. Chaudhary submits that he was never contacted by any representative from the office of the DTP.

It has also been stated in the Status Report that joint survey of the encroachment in the area could not be completed as the representatives of the Durga Builder Company did not come for the same. In response, Mr. Chaudhary submits that due to monsoon and heavy rains, it became difficult for their representatives to reach the site but has assured this Tribunal that they will lend their complete cooperation in the completion of the survey.

3. In view of the Status Report submitted by the District Town Planner, Faridabad, it has been decided that 16.09.2016 is the cut-off date for receiving representations in the NPNL category. The Committee will meet every Monday-Tuesday-Wednesday between 2.00 PM to 5.00 PM for the next two months for scrutinising the applications/representations received. The DTCP is hereby directed to furnish an Action Report regarding the process of the scrutiny on the next date of hearing.
4. It has been brought to the notice of this Tribunal that the Members of the some of the Plot Owners' Associations have been intimidating other applicants and discouraging them from submitting their representations and documents to the Committee. In view of the said fact, it is made clear that such behaviour will not be tolerated by this Tribunal and stern action will be taken against the parties who appear to be indulging in such activities.
5. Mr. Piyush Sharma has raised objections on the Proforma prepared by M/s. Durga Builders Pvt. Ltd. (DBPL) for submitting the representations before the Committee, as according to him the said Proforma is inapt and incomplete. Mr. Piyush Sharma has presented another Proforma before this Tribunal which has been prepared by the Okhla Enclave Plot Holders Association and has submitted that all representations should be made as per the aforesaid proforma. After perusing the proformas put forth by the DBPL and the Holders' Association, this Tribunal has decided that the Committee is free to accept the representations and documents submitted before them in any of the Proformas. Further, the DTCP is free to amend and add to the Proforma and seek further documents and information from the applicants.

6. Mr. Piyush Sharma submits that the case of the 492 allottees which were the petitioners before the Hon'ble Supreme Court be considered on a first hand basis as the Registry with respect to their allotment has already happened and the building plan has also been sanctioned. The said allottees are free to make their representation before the aforesaid Committee for scrutinsation.
7. This Tribunal directs the Deputy Commissioner, Faridabad to present before this Tribunal the complete details of the Sale deeds, Mutations etc. for the entire 234 acres before the next date of hearing.
8. An application under section 152 of the CPC, 1908 seeking corrections in the Procedural Order No. 7 dated 23-07-2016 has been submitted by DBPL. In view of today's proceeding, DBPL has decided not to press for the other reliefs prayed therein in the aforementioned application.
9. Another application seeking urgent directions has been moved by DBPL. Under the application, the applicant has contended that directions issued under the previous orders has not been complied by the other parties to these proceedings. Firstly, the DBPL has submitted that the State of Haryana has still not complied with the order dated 20.02.2016 and has not provided the DBPL with the complete details of the pending litigations, encroachments etc. In this regard, it has been decided that the representatives of the DBPL will visit the office to DTP, Haryana at HUDA building on 05.08.2016 and 06.08.2016 at 11.00 am and the DTP, Haryana will make available the said records for the DBPL who will make copies of the said records at his own expense. It is also directed that wherever DBPL is a party in the said litigations, appropriate actions will be taken by DBPL.

Secondly, the DBPL has submitted that the Report of H.P. Sharma with the annexure has not been furnished by the DTCP till date. In this regard, this Tribunal directs the Registry of the Hon'ble Supreme Court to supply the Report of H.P.Sharma, in W.P.(C) 876/1996 titled 'Okhla Enclave Plot Holders Welfare Association Vs. UOI & Ors.' to DBPL. It has been decided that the DBPL will make the appropriate application for this purpose and meet all the expenses thereof. The DBPL will also ensure that a copy of the Report is provided to the DTCP also.

Thirdly, the DBPL has submitted that the directions as laid in para 2 of the order dated 04.06.2016 have not been complied with by the DTCP. On further probe, Dr. Gussain has informed this Tribunal that as the entire Department is busy with the monumental task of scrutinising the representations of the NPNL category, and thus the said directions can only be complied after the scrutiny exercise is over. This Tribunal directs the DTCP to comply with the aforementioned directions issued in the order dated 04.06.2016 after the scrutiny exercise is over.

At this stage, the DBPL has decided not to press for the other reliefs prayed therein in the aforementioned application.

10. This Tribunal further directs Mr. Rahul Malhotra, Counsel for Durga General Plot Holders Welfare Association to comply with the order dated 04.06.2016 and submit the details of the members of the association by the next date of hearing.
11. The Tribunal will next assemble on 08.10.2016 at 10.30 am.

Justice (Retd.) Vikramajit Sen