

A JAGDISH PRASAD AND ORS. ETC. ETC.

v.

M.C.D. THROUGH COMMISSIONER AND ORS. ETC. ETC.

DECEMBER 17, 1992

B [N.M. KASLIWAL AND N.P. SINGH, JJ.]

C *Constitution of India, 1950: Articles 14, 19(e), 226—Delhi Electric Supply Undertaking—Residential quarters built with assistance under Low Income Housing Scheme, 1954—Allotted to low-income group employees—Right of ownership in the quarters—Whether could be claimed by the allottees—Resolution passed by Municipal Corporation in respect of its employees—Whether applicable on the basis of equality.*

D *Administrative Law: Residential quarters allotted to low paid employees of a local body built under Low Income Housing Scheme, 1954—Right of ownership—Promissory estoppel—Whether applicable.*

E The petitioners, who were employees of Delhi Electricity Supply Undertaking (DESU), filed writ petitions before the High Court claiming that the ownership of the residential quarters occupied by them be transferred in their favour. They contended that the respondents had obtained loan from the Government of India, under the Low Income Housing Scheme, 1954 to build their own houses, and as such the respondents have to transfer the ownership of the said quarters to them. The High Court held that there was no compulsion on the part of the respondents to sell the houses to the petitioners as the Delhi Administration by virtue of clause (b) of the letter dated 26.3.1957 while granting the loan had stated that all the quarters constructed under the low income group housing scheme should be owned by DESU and not to be sold to its employees, and though the Delhi Administration stated that it had no objection to the waiving of the said clause it was not waived. F The plea of promissory estoppel was also negated by the High Court on the ground that there was no document on record where any promise was held out to the petitioners that the ownership would be transferred to them and that the allotment of the flats were made to the petitioners in their capacity as employees of DESU and admittedly they were paying G rent to the respondents and that no purchase price had at any time H

been demanded nor paid either in lump sum or in instalments. Aggrieved by the High Court's judgment, the petitioners preferred the present Special Leave Petitions.

In addition to the contentions raised before the High Court, it was contended before this Court that an option was given to the respondents to sell the houses outright or on hire purchase basis or to rent out to their low paid staff and in such a matter, option should have been exercised of selling the houses outright or on hire purchase basis, which was more in consonance with justice and public interest. It was also contended that the Municipal Corporation of Delhi has passed a resolution to the effect that staff quarters in certain areas allotted to its employees be sold on no profit no loss basis and so a similar treatment ought to have been given to the petitioners.

Dismissing the Special Leave Petitions, this Court

**HELD:** 1. The petitioners were allotted the houses in view of the fact that they were employees of DESU. It is not disputed that the petitioners during all these periods were paying rent to the respondents. The petitioners have failed to show that any resolution was ever passed by DESU for selling of the quarters in question to the petitioners or had passed any resolution for giving such quarters on hire purchase basis. The petitioners have no legal right under the scheme of 1954 to claim any right of ownership in the quarters occupied by them. Though it may be desirable and a wishful thinking that the welfare state may provide house to every citizen and specially the persons belonging to low income group and falling in the lower strata of the society, yet this is a stupendous task looking to the vast population of this country and the limited financial resources and as such no direction can be given by the courts in this regard. [592 G, H; 593 A,B]

2. Resolution No. 868 dated 14.1.1970 was passed by Municipal Corporation of Delhi in respect of their own employees and the same cannot be applied to the employees of DESU. There is no question of applying the principle of equality in such matters where the employer of the petitioners is different and DESU had not passed any resolution of transferring the ownership of the houses in respect of its employees.

**A** 3. Admittedly the petitioners are no longer in service of DESU and they are either persons who have retired from service or the legal representatives of the erstwhile employees. It cannot be denied that there is a great dearth of housing accommodation in Delhi and large employees of DESU who are already in service are standing in queue for allotment of residential quarters. [593-D,E]

**B** CIVIL APPELLATE JURISDICTION : Special Leave Petition (c) Nos. 9011, 9012, 9013, 9014, 9015 and 9016 of 1991.

**C** From the Judgment and Orders dated 14.3.1991, 19.3.1991, 22.3.1991 of the Delhi High Court in C.W. Nos. 2899/89, 2991/90, 399/91, 767/91, 2948/90 & 1408/90.

M.C. Bhandare and Ms. C.K. Sucharita for the Petitioners.

Uday Sinha and A. Sharan for the Respondents.

**D** The Judgment of the Court was delivered by

**E** **KASLIWAL, J.** The petitioners being low income group employees of the Delhi Electricity Supply Undertaking (in short 'DESU') filed writ petitions in the High Court of Delhi claiming that the ownership of the residential quarters occupied by them be transferred in their favour. The High Court dismissed the writ petitioners by order dated 14.3.1991. The contention of the petitioners in the High Court was that these quarters were allotted to them, in their capacity as employees of DESU. The Government of India had granted a loan to the State Government for the purpose of enabling the persons in low income groups to build their own houses. According to the petitioners the respondents had obtained such loan and constructed the quarters in the colony and as such it was incumbent upon the respondents to transfer the ownership of the said quarters to the petitioners. The High Court held that according to paragraph 8 of the scheme of 1954 80% cash assistance had to be provided to the local bodies and the balance of 20% was to be spent by such local bodies themselves. It was further stated that "the ownership of these houses will vest with the local bodies which may rent out to their low paid staff". It was also stated that the local bodies are, however free to sell these houses outright or on a hire purchase basis to their low paid staff. The High Court

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**H** thus held that there was no compulsion on the local bodies to sell the

houses to the allottees. It was further held by the High Court that no right can be exercised by the petitioners as there was nothing to show that any such resolution had been passed by the respondent - Delhi Electricity Supply Committee which is the authority under Section 44 of the Delhi Municipal Corporation Act. The High Court also observed that in the reply affidavit filed by the respondents it had been stated in paragraph 7 that no resolution had been passed either by the Delhi Electricity Supply Committee or by the Municipal Corporation Delhi with regard to selling of the quarters to the petitioners or any one of them. The High Court also gave the reason for dismissing the writ petition that the loan was granted by the Delhi Administration to the Delhi State Electricity Board vide their letter dated 26.3.1957 and it was said in clause (b) of this letter that all the quarters constructed under the low income group housing scheme should be owned by the Delhi State Electricity Board and should not be sold to their employees. The High Court further observed that it was true that vide letter dated 6.9.1984 the Delhi Administration did say that they would have no objection to the waiving of the said clause but there is no decision that the said clause was, in fact, waived.

After the aforesaid decision dated 14.3.1991 the Delhi High Court by its order dated 19.3.1991 dismissed similar writ petitions in which an additional argument of promissory estoppel was considered and decided against the petitioners. In the order dated 19.3.1991 reliance was placed on its earlier decision dated 14.3.1991 and as regards the argument of promissory estoppel it was held that there was no document on the record filed by the petitioners where any promise was held out to any of the petitioners that the ownership will be transferred to them. The allotment of the flats were made to the petitioners in their capacity as employees of DESU and it was an admitted position that the petitioners were paying rent to the respondents. No purchase price had at any time been demanded nor paid either in lump sum or in instalments.

The Delhi High Court also dismissed the writ petition by order dated 22.3.1991 following its earlier decision dated 14th March, 1991 and 19th March, 1991. All the above Special Leave Petitions have been filed against the aforesaid decisions of the High Court dated 14.3.1991, 19.3.1991 and 22.3.1991 and the same are disposed of by one common order.

Mr. M.C. Bhandare, Learned Senior Counsel appearing on behalf of

A the petitioners contended that the DESU being a local authority was bound under the low income housing scheme, 1954 to transfer the ownership of the houses to the petitioners who were admittedly belonging to the low income group and entitled to the benefit of the scheme. It was also contended that the loan was advanced by the Central Government to the respondents for constructing the houses for the low income group

B employees and such amount could not have been diverted for any other purpose. It was also argued that an option was given to the respondents to sell those houses outright or on a hire purchase basis or to rent out to their low paid staff and in such kind of matter the option should have been exercised of selling the houses outright or on hire purchase basis, which

C was more in consonance with justice and public interest. It was also submitted that by resolution No. 868 dated 14.1.1970 the Municipal Corporation of Delhi had resolved that the municipal quarters allotted to the municipal employees at Azadpur, Dhakka, Kamla Nagar, Bunglow Road, Minto Road, Mandalian Road, Kashmiri Gate, Mori Gate, Bhargava Lane, Civil Lines etc., be sold to the allottees on no profit no loss basis and the allottees be charged at 15% of the assessed cost of the premises in the first

D instance and the balance in easy instalments spread over a period of ten years. It was submitted that a similar treatment ought to have been given to the petitioner who were allotted quarters in Tripolia DESU colony who were employees of DESU. It was also argued by Mr. Bhandare that the respondents had given subsequent assurances also that the petitioners would be given ownership rights under the scheme of 1954 and on such assurances the petitioners did not take steps of acquiring ownership of any other residential quarters in Delhi. It was contended that the petitioners who are low paid employees of DESU should not be deprived the right of

E residence which is the duty and obligation of the Welfare state to provide housing accommodation to every citizen of this country.

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We have considered the arguments advanced by Learned Counsel for the parties and have thoroughly perused the record. It is not in dispute that the petitioners were allotted the houses in view of the fact that they were employees of the DESU. It is also not disputed that the petitioners during all these periods were paying rent to the respondents. The petitioners have failed to show that any resolution was ever passed by the Delhi Electricity Supply Committee for selling of the quarters in question to the petitioners or had passed any resolution for giving such quarters on

G hire purchase basis. The petitioners have no legal right under the scheme

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of 1954 to claim any right of ownership in the quarters occupied by them. A  
Though it may be desirable and wishful thinking that the welfare state may  
provide house to every citizen and specially the persons belonging to low  
income group and falling in the lower strata of the society. However this  
is a stupendous task looking to the vast population of this country and the  
limited financial resources and as such no direction can be given by the  
courts in this regard on the basis of a broad submission that the petitioners  
were entitled to such right as an ordinary citizen. Resolution No. 868 dated  
14.1.1970 was passed by Municipal Corporation of Delhi in respect of their  
own employees and the same cannot be applied to the employees of  
DESU. There is no question of applying the principle of equality in such  
matters where the employer of the petitioners is different and the DESU  
had not passed any resolution of transferring the ownership of the houses  
in respect of its employees. It is not the case of the petitioners that in  
respect of any other low paid employees of DESU similarly circumstanced  
as the petitioners had been given ownership of any houses. B C

So far as the petitioners are concerned, they are admittedly no longer  
in service of DESU at present and they are either persons who have retired  
from service or the legal representatives of the erstwhile employees. It  
cannot be denied that there is a great dearth of housing accommodation  
in Delhi and large employees of DESU who are already in service are  
standing in queue for allotment of residential quarters. D E

We are thus clearly of the view that the petitioners have no legal right  
to claim any right of ownership and are not entitled to seek any mandamus  
from the court in this regard. The High Court has given cogent reasons in  
dismissing the writ petitions and we find no ground to take a different view.  
In the result we find no force in these Special Leave Petitions and the same  
are dismissed with no order as to costs. F

G.N.

Petitions dismissed.