

OKHLA ENCLAVE PLOT HOLDERS WELFARE
ASSOCIATION

v.

UNION OF INDIA AND ORS.

I.A. NOS. 8 AND 9

IN

(Writ Petition (C) No. 876 of 1996)

OCTOBER 21, 2008

[DR. ARIJIT PASAYAT AND C.K. THAKKER, JJ.]

Urban Development – Town planning – Development of residential plots – Direction by Supreme Court to give possession of the plots to the allottees – Possession given – Authority concerned finding that the colonizer was not the owner of a part of the land in question – Inquiry directed on the question of grant of licence to the colonizer in respect of the land – Inquiry concluded without hearing the allottees – Interlocutory application by allottees seeking appointment of Court Commissioner to inquire into the matter – Court Commissioner appointed to enquire into the relevant aspects – Direction to submit the report within four months before Court.

In the present writ petition, this Court by its orders had directed the Builders/Colonizer concerned to give possession of the residential plots to the petitioners/allottees. In the meantime, finding that the builder/colonizer was not the owner of the entire land in question, Deputy Commissioner appointed Additional Deputy Commissioner as Inquiry Officer to enquire into the matter. The petitioners also wanted to be heard in the inquiry proceedings. While the petitioners were in correspondence with the authorities, the Inquiry Officer informed them that he had already sent his inquiry report to the authority concerned.

Petitioners filed interlocutory applications seeking appointment of Court Commissioner to enquire into the

A title of the land in question and as to how licences came to be issued to the colonizer without proper verification of ownership of the same and other issues related to the colony as suggested by the Municipal Commissioner.

Appointing the Court Commissioner, the Court

B HELD: Shri H.P. Sharma, retired member of Delhi Higher Judicial Services is appointed as Court Commissioner to examine the issues and submit his report to this Court within four months. The Commissioner shall issue an advertisement to be published in one English Newspaper and one Hindi Newspaper with wide circulation notifying that if any person wants to be heard, he/they may appear as individual or in groups to participate in the enquiry to be conducted by the Court Commissioner. The Court Commissioner shall examine and submit report to this Court on all the relevant aspects. The matters to be listed after four months after submission of report by the Court Commissioner. [Paras 3 and 4] (1011-G, H; 1012-B, H)

E CIVIL ORIGINAL JURISDICTION : I.As. Nos. 8 and 9 In Writ Petition (C) No. 876 of 1996

F Manjit Singh, A.A.G., S.K. Dholakia, K. Radhakrishnan, P.S. Patwalia, Ashish Dholakia, Adarsh Priyadarshi, Sumita Hazarika, Sanjeev K. Bhardwarj, B.K. Prasad, P. Parmeswaran, D.S. Mehra, Ashok Bhan, Subhash Kaushik, Anil Katiyar, T.V. George, Sharad K. Agrawal, Sangeeta Grover, Rakesh Singh, Arun K. Sinha, Yatish Mohan, E.C. Vidya Sagar, Ranbir Singh yadav, B. Diwakar and P. Kakra for the Appearing Parties.

The Judgment of the Court was delivered by

G **DR. ARIJIT PASAYAT, J. 1.** Prayer in these IAs is as follows:

H “(a) Order a CBI inquiry or appointment of a Commission under the Chairmanship of a retired Judge of a High Court to inquire into the title of the lands in question and how licenses came to be issued without proper

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verification of ownership of the same and other issues related to the Colony as suggested by Municipal Commissioner, Faridabad, in his letter No.MCF/STP/2003/239 dated 25.7.2003.

- (b) Appoint Receiver to take over the colony from the Colonizer.
- (c) Direct development of the colony by the Receiver after fulfillment of all formalities under the Act in a time bound manner; and
- (d) Pass such other order(s) as this Court may deem fit and proper in the facts of the case."

2. Aforesaid prayers have been made with reference to the orders passed by this Court on 2.12.1999 and 23.11.2000. Grievance of the petitioners is that while they were in correspondence with the authorities, they received letter from the Additional Deputy Commissioner, Faridabad, informing them that he had already sent his report on the enquiry to the Deputy Commissioner, Faridabad, on 22.8.2005. The petitioners also make a grievance that neither they were heard nor informed about the so called conclusions of the enquiry for about 12 months. They make a further grievance that Colonizer has failed to discharge his obligations under the Haryana Urban Development Act, 1975 (in short the 'Act') and Haryana Municipal Corporation Amendment Act, 2001 (hereinafter referred to as the 'Amendment Act'). Grievance is also made that the Colonizer has failed to discharge the obligations as per the licence agreement.

3. After hearing learned counsel for the parties we direct as follows:

Mr. H.P. Sharma, retired member of Delhi Higher Judicial Services is appointed as Court Commissioner to examine the issues and submit his report to this Court within four months. The Commissioner shall issue an advertisement to be published in one English Newspaper and one Hindi Newspaper with wide circulation notifying that if any person wants to be heard, he/ they may appear as individual or in groups to participate in the

A enquiry to be conducted by the Court Commissioner. The cost of advertisements shall be shared by the petitioners, State and the Colonizer. The Court Commissioner shall receive an honorarium of Rs.45,000/-p.m. to be shared by the petitioners, the State and the Colonizer.

B The learned Court Commissioner shall examine and submit report to this Court on the following aspects within four months:

C (i) How much of the land was and is in the ownership of Durga Builders Pvt. Ltd. and its sister companies in Okhla Enclave Colony, Phase I & II, Faridabad in respect of which licenses were granted by the respondents authorities.

(a) In 1991-92 when the licenses to develop the colony were granted;

D (b) In 1996 when the present writ petitions were filed; and

(c) At present.

E (ii) Identification of the allottees entitled to the plot with appropriate details setting out the basis on which their entitlement has been determined;

(iii) Extent of the development works already carried out with appropriate details;

F (iv) Cost involved in carrying out the remaining development works with appropriate details;

(v) Furnishing account of the money received by the respondent authorities from Durga Builders and sister companies;

G (vi) Furnishing account of the amount received by Durga Builders and sister companies from plot holders.

4. List these matters after four months after submission of report by the Court Commissioner.

H K.K.T.

Matters adjourned