

(2009) 07 DEL CK 0430

Delhi High Court

Case No: Writ Petition (C) 44 of 2007

Industrial Progressive (India)

APPELLANT

Vs

D.S.I.D.C. Ltd. and Another

RESPONDENT

Date of Decision: July 31, 2009

Hon'ble Judges: Sanjiv Khanna, J

Bench: Single Bench

Advocate: V.K. Sharma, for the Appellant; Anusuya Salwan and Renuka Arora, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Sanjiv Khanna, J.

This common order will dispose of W.P.(C) 44/2007 titled Industrial Progressive (India) v. DSIDC Ltd. and Anr. and W.P.(C) 68/2007 titled Ananaya Exports v. DSIDC and Anr. For the sake of convenience, facts in the case of Industrial Progressive (India) have been highlighted and referred to. It is stated that the facts in the case of Ananaya Exports are similar.

2. Pursuant to the directions issued by the Supreme Court in the case of M.C. Mehta, DSIDC in 1996 had invited applications for allotment of industrial plots under the relocation scheme. The petitioner deposited Rs. 1, 20,000/- with DSIDC on 28th December, 1996 and was issued letter of eligibility.

3. By letter dated 10th October, 2000, the DSIDC informed the petitioner that he had been allotted plot No. 41, Pocket P, Sector-1, Bawana Industrial Complex. The petitioner was liable to pay 50% of the estimated cost of the plot of Rs. 5,25,000/- by 31st March, 2001. The allottees were also informed that they were entitled to loan from Delhi Financial Corporation (DFC) on soft terms.

4. The petitioner approached DFC and deposited Rs. 4,000/- as processing fee for the loan. DFC paid an amount of Rs. 3, 41, 250/- and the petitioner made payment of Rs. 1, 83, 750/-. Rs. 5, 25,000/- was accordingly paid. A tripartite agreement was executed between the petitioner, DSIDC and the DFC.

5. Counsel for the petitioner during the course of arguments admits that the petitioner did not make any payment to DFC in terms of the tripartite agreement between the petitioner, DFC and DSIDC.

6. In the year 2003, DFC due to defaults recalled the entire loan amount from DSIDC and the consideration received by DSIDC from DFC including the amount received from the petitioner was returned to DFC towards repayment of the said loan in terms of the tripartite agreement. The allotment of the petitioner was cancelled and the case was closed.

7. Counsel for the respondent DSIDC has placed on record copy of advertisement dated 30th May, 2004 issued by DFC to plot holders, who were allotted plots under the relocation scheme at Bawana Industrial Complex. The said advertisement has been placed on record in terms of order dated 25th March, 2009. As per the said advertisement issued by DFC, another opportunity was granted to the allottees of 2001 to revive their application for loan and for allotment of plots on complying with the terms and conditions as mentioned. The said option of revival was available to the petitioner on or before 30th June, 2004. The petitioner did not avail and take benefit of the said option. As per the writ petition, the petitioner kept quiet till he wrote the letter dated 30th October, 2006 to DFC. The petitioner by this letter wanted to revive the application for allotment of plot under the relocation scheme. Thereafter, the petitioner filed the present writ petition in 2007 with a prayer to issue mandamus to the respondent DSIDC to allot plot No. 41, Sector 1, Pocket P at Bawana Industrial Complex.

8. The petitioner now relies upon circular dated 23rd April, 2007. The relevant portion of the above said circular reads as under:

EXTENSION OF DATE FOR PAYMENT

In continuation to our earlier press advertisement on 05.01.2007, the last date for making payment against the cost of flatted factories/plots allotted in the year 2000 (applicable in cases of those allottees of Bawana only who had made 50% payment by 31st March, 2001) and afterwards is extended further upto 30th June, 2007 on payment of 18% interest plus a nominal penalty of Rs. 5000/-. The penalty of Rs. 5000/-.

9. The contention of the petitioner is that 50% of the cost of the plot was paid by the petitioner on or before 31st March, 2002, therefore, he is entitled to benefit of the said circular. It is not possible to accept the contention. In the present case, the petitioner had taken loan and entered into a tripartite agreement with DSIDC and

DFC. Pursuant to that tripartite agreement, DFC had made payment of Rs, 3, 41,250/- on behalf of the petitioner. There was breach of agreement and the petitioner did not pay a single penny to DFC. The loan was recalled and the entire amount deposited, was refunded to DFC in 2003. The allotment was cancelled. It is not possible to accept the contention of the petitioner that the aforesaid circular would apply even in cases where 50% payment was initially made and subsequently refunded and the allotment was cancelled. The circular will apply to cases where 50% of the estimated cost was deposited by 31st March, 2001 and the said amount remained with DSIDC. This circular will not apply when the amount paid is refunded/repaid.

10. Prices of industrial plots in Bawana Industrial Area have gone up considerably and a number of earlier applicants, who had given up their allotments or who were not interested, suddenly after lapse of 3 to 4 years have shown interest in the allotment of industrial plots.

11. The aforesaid facts were noticed by the Managing Director of DSIDC in his undated order, which was passed pursuant to directions issued by this Court on 7th April, 2008 in the present writ petition. He has clarified that the circular dated 23rd April, 2007 is meant for such allottees whose deposit of 50% was available in the central funds of DSIDC and it does not cover such allottees whose money had been taken back from DSIDC by the concerned financier/banks or companies. In his order he has observed as under:

The DSIDC has noted from experience that large number of allottees were initially reluctant to go to new industrial estates at Bawana & Narela due to distance and high cost of plots being charged by Government. Recently the prices have gone up and the market price of industrial plots is much higher than the allotment price fixed by Govt. The DSIDC is getting a flood of applications for revival/reallotment of plots which were cancelled or withdrawn by the allottees themselves earlier. Any special dispensation in any particular case will open flood gates of such applicants who earlier did not bother to move their units from residential areas/non-confirming areas to relocate their industries in the newly developed industrial estates of Delhi Govt., in Bawana and Narela.

12. In view of the aforesaid facts, the writ petitions W.P.(C) 44/2007, W.P(C) 68/2007 and Cont. Case (C) Nos. 570/2008 167/2009 & 168/2009 are dismissed as they have no merit.