

(2011) 03 DEL CK 0389
Delhi High Court
Case No: LPA No. 204 of 2011

C.R. Park M, N and P
Block Residents
Welfare Association
and Another

APPELLANT

Vs

Union of India (UOI)
and Others

RESPONDENT

Date of Decision: March 1, 2011

Hon'ble Judges: Dipak Misra, C.J; Sanjiv Khanna, J

Bench: Division Bench

Advocate: Vineet Bhagat, for the Appellant; D.S. Mahendra, Senior Standing Counsel for
Respondent No. 1/UOI and Sangeeta Chandra, for DDA, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

CM No. 4395/2011 (for exemption)

1. Allowed, subject to all just exceptions.

CM No. 4393/2011 (delay)

For the reasons contained in the application, the delay in filing the appeal is condoned. The application stands disposed of.

LPA No. 204/2011 & CM No. 4394/2011 (stay)

Orders dated 21st January, 2010 and 7th January, 2011 passed by the learned Single Judge in Writ Petition (Civil) No. 422/2010 and Review Application No. 186/2010 respectively, are subject matters of challenge in this intra court appeal.

2. By the impugned orders the Writ Petition and the review application filed by the Appellant have been dismissed. The challenge in the writ petition was to allotment

of plots No. 2 and 3 adjoining pocket 52 in Chittaranjan Park, New Delhi to Respondent No. 4 herein Buddha Tri Ratna Mission for construction of a Buddhist Temple/Monastery. The said allotment was made way back in 1997.

3. Learned Single Judge in his order dated 21st January, 2010, has made it clear that inter-se claims and disputes between Delhi Development Authority and the Respondent No. 4, with regard to interest, ground rent, etc. which are subject matter of a separate Writ Petition bearing WP(C) No. 159/1998, are not required to be gone into and examined. We agree with the said reasoning.

4. Before us, the Appellant has contended that the allotment of the aforesaid plots is contrary to the lay out plan and plots were earmarked for a park/green area. During the course of hearing, it was pointed out that the area which was originally shown as green area/ park, has been re-designated and allotted for construction of Kali Bari Mandir. It is submitted that the allotment of the aforesaid plots should be cancelled and should be converted into green area as the area earmarked for green area/park has been converted into Kali Bari Mandir.

5. The plots in question were/are earmarked and were meant for allotment for religious site/temple. Consequently, the allotment was made to Respondent No. 4 in 1997. In 1997 itself, challenge was made by some residents to the said allotment in Writ Petition (Civil) No. 1672/1997. L&DO had clearly stated that as per the lay out plan of the area, the said plots were earmarked for religious site/temple and were rightly allotted to Respondent No. 4. The writ petition was disposed of on 23rd October, 2003 with the direction that the plots should be utilized only in accordance with the lay out plan as amended from time to time.

6. After about 3 years in 2010, a fresh writ petition in which impugned orders have been passed with similar prayers was filed. Learned Single Judge has rightly held that allotment was made in 1997 and is governed by the lay out plan and the master plan applicable at the relevant time.

7. Learned Counsel for the Appellant has submitted that there was a change in the lay out plan and in this connection, has drawn our attention to the purported lay out plan enclosed with the appeal. This aspect has been specifically considered in the order dated 7th January, 2011 passed by the learned Single Judge dismissing the review application. The affidavit of the DDA filed on 10th September, 2010, has been quoted in paragraph 5 of the said order dated 7th January, 2011. DDA had stated that resolution dated 17th June, 1978 was passed but there is no record available to show that the said resolution was in fact implemented and, therefore, there was a modification in the lay out plan. The land use of pocket where Kali Bari Temple exists is recreational use (District Park) and even in the zonal plan of Zone "F" prepared under the Master Plan of Delhi 2021, the land use continues to be the same. With regard to the land use of the plots in question, the same is classified under the broad head "Residential" with a specified land use indicated as "religious" site. This

position is reflected in the current Zonal Plan approved under Master Plan of Delhi 2021. Thus, as per the stand of the DDA, there was no modification in the lay out plan.

8. In view of the aforesaid, we do not find any merit in the present appeal and the same is dismissed in limine.