

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5249 OF 2002

Sh. Jai Bhagwan & Ors.

... Appellants

Vs.

Union of India & Ors.

... Respondents

O R D E R

Appellants 1, 2 and 3 were each the owner of one bigha land in Khasra No.58/15 and 59/18 of Samaipur village and their lands were acquired on 27.7.1984 for the planned development of Delhi. According to Appellants, Government of India formulated a Scheme dated 2.5.1961 under which persons whose lands were acquired for planned development of Delhi, were eligible for allotment of developed plots. The appellants claim to have made applications in October, 1986 for allotment of plots under that scheme. After considering the facts of their cases, the first respondent by letters dated

13.10.1986, 17.10.1986 and 16.10.1986 requested the second respondent - Delhi Development Authority ('DDA' for short) to allot plots measuring 250 sq. yds, to the appellants in view of acquisition of their lands. The DDA, by communications dated 8.12.1988 allotted to the appellants, plots of the size 120 sq. mtr. in its Rohini Residential Scheme on the ground that plots of the size of 250 sq. yds. were not available.

2. Feeling aggrieved, the appellants approached the Delhi High Court in 1989 praying for a direction to DDA to allot plots of the size of 250 sq. yds. and for a direction to modify the letter of allotment dated 8.12.1988 to that effect. A learned Single Judge of the Delhi High Court dismissed the said writ petitions by a common order dated 29.2.2000. He held that the appellant did not have any vested right to claim plots of the size of 250 sq. yds. and having regard to non-availability of plots of the size of 250 sq. yds., the allotment of plots measuring 120 sq. m. was not open to challenge. The appeal filed by the appellants was dismissed by the Division Bench of the High Court by a brief concurring order dated 25.7.2001.

3. The said order is challenged in this appeal by special leave. The grievance of the appellants is that the DDA was adopting a discriminatory approach. It is submitted that while plots measuring 120 sqm. were offered to the appellants, others similarly situated were offered plots of the size 144 sqm. and 162 sqm. It is also their grievance that some of the allottees who were earlier offered plots measuring 120 sqm. were subsequently offered larger plots. The Appellants contend that having regard to the recommendation by first respondent, DDA ought to allot them plots measuring 250 sq. yds.

4. Rule 6 of Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (for short 'the Rules') provides for allotment of Nazul lands (that is land placed at the disposal of Delhi Development Authority and developed by or under its control and supervision) at predetermined rates. The Rule enumerates different categories of persons entitled to allotment. The first category of persons entitled to allotment under the said Rules are individuals whose lands have been acquired for planned development of Delhi after 1.1.1961 and which forms part of Nazul

land. The size of the plot to be so allotted was to be determined by the Administrator of the Union Territory of Delhi, after taking into consideration the area and value of the land acquired from the persons as also the location and value of the plot to be allotted. What is significant is that there is nothing in the Rules which makes it obligatory for DDA to allot plots of any particular size to any allottee, merely because there is a recommendation by the first Respondent. Nor have appellants shown any assurance or agreement by DDA to allot them plots of the size of 250 Sq.yds.

5. The DDA has explained that at the time of allotments of plots to the appellants, there were a large number of applicants with recommendations awaiting allotment of plots, and their number (about 1500) was larger than the number of plots available for allotment; that in 1988-89, the number of plots available for allotment was 713 of different sizes including 162 sqm., 144 sqm. and 120 sqm. Therefore, DDA clubbed together 236 plots of 120 sqm. size, 50 plots of the size of 144 sqm and 5 plots of 162 sqm. size and allotted them through draws. It was submitted that there was no question of any 'inter-se' seniority

or preference among those who were allotted 162 sqm., 144 sqm. and 120 sqm. plots. For the purpose of drawing lots and allotment, all these available plots of three sizes were treated as equal. Thus, allotment of plots measuring 120 sqm. to appellants and allotment of plots of the sizes of 162 and 144 sqm. to some others, was not discriminatory, but as a result of drawing of lots. DDA has also explained the subsequent allotment of larger size plots. It is stated that when plots were allotted to the appellants, what were available were plots of sizes of 120, 144 and 162 sq. m. But, subsequently, when other layouts were developed by DDA, larger plots were laid out and became available for allotment. Therefore, when draws were held in 1992 or 1995 for allotment, some larger plots of the size 200 sq.m and 207 sq.m were allotted to those who did not get allotment during the 1989 draw. It is rightly pointed out that merely because larger plots were allotted at the draws held in 1992 and 1995, appellants cannot claim that larger plots should be allotted to them. The allotment of plots depended on the availability of plots at the time of allotment and in the absence of any vested right, as rightly held by the High Court, the

appellants have to accept whatever that was available and allotted. As neither discrimination nor bias nor undue preference is made out and as there is no vested right for allotment of plots of a particular size, the appellants cannot have any grievance.

6. We, therefore, find no reason to interfere with the order of the High Court. The appeal is dismissed. We, however, grant two months time to the appellants to comply with the requirements of the DDA's communication dated 8.12.1988, if they have not already complied with the same. DDA shall allot and deliver the plots in terms of the allotment letters dated 8.12.1988 within two months thereafter.

.....J.
(R V Raveendran)

New Delhi;
September 23, 2008.

.....J.
(Lokeshwar Singh Panta)