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C.A.No. 2885 OF 2001
ITEM NO.35

COURT NO.6

SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 2885 OF 2001@@
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KAILASH N. DWIVEDI & ORS. ... APPELLANT (S)

VERSUS

STATE OF U.P. & ORS. ... RESPONDENT (S)
((With prayer for interim relief)

WITH C.A.NO. 2886/2001

Date : 12/05/2001 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.P. MISRA
HON'BLE MR. JUSTICE B.N. AGRAWAL

For the Appellant (s) Mr. Yogeshwar Prasad, Sr. Adv.
Ms. Rachna Gupta, Adv.
Dr. I.P. Singh, Adv.

For the Respondent(s) Mr. Shrish Kumar Misra, Adv.
Mr. Pradep Misra, Adv.

Upon hearing counsel the Court made the following
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J.....
.SP2

Before the matter is taken up for hearing, a dispute is raised with respect to certain plots, whether the possession is still with the appellants or is with the respondent No.6. In the supplementary counter affidavit filed by G.S. Sharma, in para 9 it is recorded as under :

.....L....I....T.....T.....T.....T.....T.....T...J
.SP1

"9. That the plots in question have also been developed and they have been allotted to various allottees whose names appear at serial 94, 220, 221, 307, 308, 321 to 336, 396, 397, 409 to 413, 419, 426 to 430 in the list of the allottees. it is pertinent to mention here that the some of the allottees have also set up their respective industries."

.....L....I.....T.....T.....T.....T.....T.....T.....J
.SP2

In reply to this in the supplementary rejoinder affidavit of Kailash Narayan Dwivedi filed for ..2/-

respondent No.6, the aforesaid fact is denied. The relevant portion of the same is quoted hereunder :

.....L....I.....T.....T.....T.....T.....T.....T.....J
.SP1

"7-10. That the contents of para 7 to 10 of the counter affidavit are wrong and denied. The plots have neither been developed nor possession given to the allottees. The petitioners are still in possession of the plots as seen from the photographs annexed as Annexure SBA-1, and no development work has been carried out in the plots. Even otherwise the respondents have made huge profits running into crores. The poor land-owners have been paid compensation at the rate of Rs.1640 per bigha while land is being sold at the rate of Rs.800 per meter. The petitioners' in view of the various provisions of law are entitled for the release of the land."

.....L....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Thus a dispute has arisen regarding as to who is in possession.

We direct the District Judge, Kanpur Nagar to appoint one of the Additional District Judge to submit a report regarding this dispute of possession. The parties may, if they are so advised, file their contention with documents, if any, by the first week of July, 2001. The person so appointed by the District Judge shall submit report about the position on the spot both about the possession and the development made therein by making spot inspection, after intimating to the parties concerned. The said report may be submitted by the 15th of September, 2001 to this Court.

The matters may be listed for final disposal on a Non-miscellaneous day in the month of October, 2001.

In the meantime, the status quo of possession as of today shall be maintained.

.SP1

Sarita

(V.P. Tyagi)
Court Master