

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).18242/2010

(From the judgement and order dated 26/11/2009 in WP No.3292/1992 of The  
HIGH COURT OF DELHI AT N. DELHI)

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

LOW INCOME FRIENDS COOP HOUSING BUILDING  
SOCIETY LIMITED & ORS.

Respondent(s)

(With prayer for interim relief and office report)  
(For Final Disposal)

Date: 14/05/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE DIPAK MISRA  
(VACATION BENCH)

For Petitioner(s)

Mr. Ashwani Kumar, Adv.

For Respondent(s)

Mr. Rakesh Munjal, Sr. Adv.  
Mr. S.S. Ray, Adv.  
Ms. Rakhi Ray, Adv.  
Mr. Vaibhav Gulia, Adv.

Mr. B. Chahar, Sr. Adv.  
Ms. Satya Siddiqui, Adv.  
Ms. Rekha Pandey, Adv.  
Mr. S.K. Mishra, Adv.  
Mr. D.S. Mahra, Adv

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

Leave granted.

The appeal is disposed of in terms of the signed order.  
There shall be no order as to costs.

| (DEEPAK MANSUKHANI)  
| Court Master

| (M.S. NEGI)  
| Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4664 OF 2013  
(Arising out of SLP(Civil) No. 18242 of 2010)

DELHI DEVELOPMENT AUTHORITY

Appellant(s)

VERSUS

LOW INCOME FRIENDS COOP HOUSING BUILDING  
SOCIETY LIMITED & ORS.

Respondent(s)

O R D E R

Leave granted.

In this appeal by special leave, a challenge is to the judgment dated 26.11.2009 passed by the Division Bench of the High Court of Delhi in WPC No. 3292 of 1992 whereby the High Court has directed the appellant, Delhi Development Authority(for short "DDA") to consider the allotment of 88 members of the respondent society as per the list appended to the Registrar's letter dated 14.6.1984. Regard being had to the eligibility for allotment under the Delhi Cooperative Societies Act, 1972.

We have heard Mr. Ashwini Kumar, learned counsel for the appellant and Mr. Rakesh Munjal, learned senior counsel for the respondents. It is submitted by the learned counsel for the DDA that the High Court has fallen into error by not taking into consideration that the land owned by the respondent society was not acquired and the colony was raised and later on it was regularised and hence, the question of allotment of land did not arise. It is his further submission that there were no applications for grant of allotment and, therefore, the recommendation made by the Registrar of the Cooperative Society would not bind the authority to allot the land. That apart, the society does not have any right in law for allotment of land.

Mr. Munjal, per contra, would submit that the acquisition of the land is not the sine qua non for getting the allotment and when the cooperative society especially a housing society applies for grant of allotment of land, the same has to be considered and on that basis it should have been considered regard being had to the order passed by the Lt. Governor on 18.1.1989.

To appreciate the rival submissions raised at the Bar, we have carefully perused and analysed the order of the High Court. On a scrutiny of the same, it is noticeable that the High Court has been guided by the factum that though there was no acquisition yet there was a right in favour of the members because of the order passed by the Lt. Governor on 18.1.1989. On a perusal of the order passed on 18.1.1989, we find that there has been no discussion with regard to the legal entitlement of the respondents. There is no deliberation on the issues whether there were applications or not, or any other conditions were required to be satisfied. It is perceptible from the order of the High Court that the view expressed is solely on the basis of the order passed by the Lt. Governor. On one hand, it is submitted by the learned counsel for the appellant that the lands are only allotted in lieu of land acquired under a scheme, and on the other, it is contended by the learned counsel for the respondent that on the basis of the application, housing societies are granted allotment of the land by the DDA. Be that as it may, all these aspects have not been considered with studied scrutiny by the High Court and, therefore, we hold that the order passed by the High Court is not sustainable and accordingly it is set aside and the matter is remitted to the High Court for fresh disposal in accordance with law.

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The High Court is requested to dispose of the civil writ petition as expeditiously as possible. We may not hasten to add that both the parties are permitted to file the documents to bolster their submissions and if needed amend the pleadings to substantiate their respective stands.

The appeal is disposed of accordingly. There shall be no order as to costs.

.....J.  
(Dr. B.S. CHAUHAN)

.....J.  
(DIPAK MISRA)

NEW DELHI  
MAY 14, 2013.