

ITEM NO.301 COURT NO.11 SECTION XI CORRECTED

S U P R E M E C O U R T O F I N D I A  
 RECORD OF PROCEEDINGS  
 I.As.NO.40 OF 2012  
 IN  
 IA NO.27, 29 AND 30  
 IN  
 CIVIL APPEAL NO(s).6962 OF 2005

&  
 I.A.NO.41 OF 2012 IN C.A.NO.6962/2005

R.K. MITTAL & ORS. Appellant (s)

VERSUS

STATE OF U.P. & ORS. Respondent(s)

Date: 02/02/2012 These IAs/Appeal were called for hearing today.

CORAM :

HON'BLE MR. JUSTICE SWATANTER KUMAR  
 HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For parties

(Applicant Bank-SBI) Mr. Mukul Rohtagi, Sr. Adv.  
 Mr. Sanjay Kapur, Adv.  
 Mr. Anmol Chandan, Adv.  
 Mr. Ateev Mathur, Adv.  
 Mr. Rajesh Goel, Adv.  
 Ms. Ashmi Mohan, Adv.  
 Mr. K.P. Sunder Rao, Adv.  
 Mr. Wajeesh Shafia, Adv.  
 Mr. Prateek Tewari, Adv.  
 Mr. Chandan Kumar Rai, Adv.  
 Mr. Ghazal Khurana, Adv.  
 Mr. J.M. Sharma, Adv.  
 Mr. Sandeep Singh, adv.  
 Mr. Sameer Singh, Adv.,  
 Mr. Vibhor Verdhana, Adv.

(For NOIDA Authority) Mr. Ravindra Kumar, Adv.

2

(For State of U.P.) Mr. Ameet Singh, Adv.  
 Mr. Mukul Singh, Adv.  
 Mr. Sherish Kumar Mishra, Adv.

Mr. Prashant Kumar, Adv.  
 Mr. Anurag Sharma, Adv.  
 For M/s A.P & J & Chambers

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

I.A.NO.40/2012 IN I.A. NO.27, 29 & 30 IN C.A. NO. 6962/2005 &

These applications have been filed before this Court for two reasons. Firstly, that the Noida Authority has sealed the banks and secondly certain banks may not be able to apply for allotment of alternative sites in view of the brochure issued by the Noida Authority (NOIDA). This situation has arisen because of certain ambiguities stated to be appearing from the number of paragraphs mentioned in our main judgment dated 5.12.2011 and the subsequent order dated 23.1.2012.

The learned counsel appearing for the applicants contends that the Banks which are public sector and are dealing with the public at large have been put to great inconvenience because of a sudden sealing, as they expected the Banks to be sealed, if at all, after the expiry of the six weeks period specified in the order dated 23.1.2012. However, according to the learned  
3  
counsel appearing for Noida Authority (NOIDA), the commercial activities of the Banks in the residential block were to be stopped forthwith in terms of the paragraph 56 clause 2 of the judgment dated 5.12.2011 and six weeks was granted for shifting and for implementing the Scheme for providing alternative accommodation, space to the Banks or other commercial units working in the residential sectors.

We do not think that the Nodia Authority (NOIDA) was entirely incorrect in its approach. We must place on record that the Authority has at least started taking action in terms of the judgment of this Court which they are obliged to and we have no doubt that in future they shall take appropriate action in accordance with law and subject to the clarifications that we propose to issue in

today's order to avoid further ambiguity or confusion for implementation of the Court's earlier order by the parties concerned.

Thus, we issue the following directions-cum-clarifications:

That our main judgment shall remain in force in its entirety except to the modification of paragraph 56.2 & 56.5 which shall be covered vide our order dated 23.1.2012 and today's order.

4

We are informed that the Noida Authority has already issued final notices to all the Banks and other persons or units carrying on commercial activities in residential sectors, the same shall remain in force in accordance with law, however, the Noida Authority may exercise its power of sealing only after the expiry of six weeks with effect from 23.1.2012. All other steps to implement the scheme and the order of this Court shall be carried out by Noida Authority without default and within the time granted.

The Banks which have already been sealed, the seals may be removed by tomorrow evening. But if the Banks do not stop the commercial activities within six weeks as provided and take the alternative sites or either of them, the Noida Authority will be well within its right to take effective and coercive steps in accordance with law.

If any Bank or private unit has not applied under the Scheme for obtaining alternative space/site from the Noida Authority, the Noida Authority may seal their premises within one week of the closure of the scheme, however, if an affidavit is filed by the Branch Manager of

the concerned Bank, Managing Director of the Company or  
the sole proprietor of the unit before the Noida Authority

5

that they do not wish to take any steps under Scheme but  
would make their own private arrangement to shift, their  
premises shall also not be sealed by the Noida Authority  
for a period of six weeks from 23.1.2012 but on the expiry  
of the period, Noida Authority will be free to take all  
coercive steps.

We are informed that all the Banks which are  
located in impermissible zones can apply under the Scheme  
of Noida Authority and there is no such restriction.

With these clarifications and directions, both  
these applications are disposed of. We make it clear that  
we will not grant any further extension to any party  
including Noida Authority. This will apply to all  
parties.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master