

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

IA NOS. 27-39 IN CIVIL APPEAL NO(s). 6962 OF 2005

R.K. MITTAL & ORS.

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(for permission to file appln. for intervention directions,
modification, impleadment and office report)

Date: 23/01/2012 This Appeal was called on for hearing today.

CORAM :

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

For Appearing parties:

Mr. Mukul Rohtagi, Sr. Adv.
Mr. Sanjay Kapur, Adv.
Mr. Nikhil D., Adv.
Mr. Ashmi Mohan, Adv.
Mr. Pankaj Pandey, Adv. for
M/s. AP&J Chambers.Mr. Ranjit Kumar, Sr. Adv.
Mr. Prashant Kumar, Adv.
Mr. Anurag Sharma, Adv.Mr. P.S. Patwalia, Sr. Adv.
Mr. Jitendra Mohan Sharma, Adv.
Mr. Sandeep Singh, Adv.
Mr. Harsh Surana, Adv.
Ms. Deepali Surana, Adv.
Ms. Anjali Bhargava, Adv.
Mr. Ajit Sharma, Adv.

Mr. Ravindra Kumar, Adv.

Mr. Bijoy Kumar Jain, Adv.

Mr. Shrish Kumar Misra, Adv. (NP)

Mrs. Shiel Sethi, Adv. (NP)

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Mrs. Rachana Joshi Issar, Adv. (NP)

Mr. Vinay Kumar Garg, Adv.
Mr. Vivek Sharma, Adv.

Mr. Himanshu Munshi, Adv.

Mr. Pahlad Singh Sharma, Adv.

Mr. Navin Chawla, Adv.

Mr. Gopal Prasad, Adv. (NP)

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

Learned counsel appearing for the Noida Authority

at the very outset regrets his absence on the last date of hearing and submits that entire record has been brought and even affidavit has been prepared to be filed in this Court showing the steps taken by the Noida Authority in furtherance to and after the pronouncement of the judgment of this Court dated 5th December, 2011. We do not intend to take this affidavit on record at this stage. In view of the request made by the learned counsel appearing for the Noida Authority and its CEO, we are of the opinion that no further action need be taken against the Noida Authority or its officers at this stage and we will proceed to deal with all the applications in accordance with law.

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After hearing the learned counsel appearing for the parties at some length, and Mr. S.K. Dwivedi, CEO of the Noida Authority, who is present in Court with records, we pass the following directions and order:

The applications for intervention are dismissed.

It has been argued on behalf of some of the applicants and, in fact, commonly conceded that for professionals, 25 per cent of the permissible FAR is allowed to be used by them for professional purposes. It is further contended that 30 per cent of the ground floor area permitted to be used under paragraph 56.5 of the judgment is very inconvenient and contrary to the bye-laws and master plan of Noida. This area would be completely insufficient to meet the minimum requirements of the professionals. As it is a conceded position on behalf of the Noida Authority that 25 per cent of the permissible FAR can be used by the professionals for their professional activities, we consider it reasonable to modify the direction 56.5.

However, we make it clear that this will be applicable only to lawyers, architects and doctors for running limited professional activity and not at commercial

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levels. Another argument that has been addressed is that the expression 'ground floor' used in the same clause may be clarified to 'any floor' because somebody may be having a two-storeyed house and may himself be living on the first floor only. Therefore, we modify paragraphs 55 and 56 of the judgment as follows:

"That the Doctors, Lawyers, Architects can use 25 per cent of the permissible FAR of any floor in their premises in the residential sector but only for running their personal office or personal clinic in its restricted sense as clarified in the judgment."

(i) The Noida Authorities shall, within one week from today, issue a final notice to all the owners of the residences requiring them to stop use of the premises for banking or any other commercial activity and requiring them to shift from the residential areas.

(ii) The Noida Authority shall also issue an advertisement stating therein the premises which can be offered to the banks as per the policy of the Noida Authority. This policy shall clearly

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state the terms and conditions for allotment and the manner in which the allotment of the alternative site/land would be made to the banks and/or other commercial activities in appropriate sectors, i.e. commercial, institutional or industrial-commercial. We make it clear that such policy should be fair and transparent.

(iii) Within one week thereafter the banks and

other persons carrying on the commercial activities shall respond to the advertisement given by the Noida Authority or the circular issued by them. Their allotment should be finalized immediately thereafter.

(iv) The entire process should be completed within six weeks from today. After six weeks the Noida Authority shall be entitled to cancel the lease deed as well as take other permissible steps in accordance with law to prevent commercial users in the residential sectors. We also make it clear

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that the Noida Authority will be at liberty to consider the request of the nursing homes, clinics or other commercial activities carrying on in the residential areas for allotment of an alternative site in accordance with its policy, if any. The Noida Authority shall be entitled to fix present day rates or impose such other terms and conditions as is considered appropriate by them. This we leave to the discretion of the authorities concerned.

(v) Any branches that have opened in Noida after the pronouncement of the judgment of this Court shall not be entitled to any of the benefits of the judgment and this order.

(vi) We make it clear that the directions contained in this order should be complied with by all concerned and within the time stipulated. In the event of default, this Court shall be compelled to take proceedings under the Contempt

of Courts Act, 1971 against the erring or
defaulting officers/officials.

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All the applications are disposed of and we make
it clear that we will not grant any further extension of
time to the Authority concerned.

[SUMAN WADHWA]
COURT MASTER

[SNEH BALA MEHRA]
COURT MASTER