

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s).7471 OF 2010
(arising out of S.L.P.(C)No.1805 of 2007)

DELHI DEVELOPMENT AUTHORITY ...Appellant(s)

VERSUS

AJIT SINGH AND OTHERS ...Respondent(s)

O R D E R

Leave granted.

This appeal is directed against judgment dated 30.1.2006 by which the Division Bench of the Delhi High Court allowed the letters patent appeal preferred by respondent Nos.1 and 2 against the order of the learned Single Judge and quashed conversion of the institutional land in Pocket 11, Sector B-4 of the Narela Residential Project into smaller 236 plots measuring 18 sq. mts. and 664 plots of 12.5 sq. mts.

The land of village Narela was acquired as a part of larger acquisition undertaken for planned development of Delhi. The appellant prepared Narela Residential Project under which various pockets of land were earmarked for residential purpose. Respondent Nos.1 and 2, whose land was also acquired, were

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allotted Plot No.26 measuring 208.93 sq. mts. in Pocket 11.

Thereafter, notification dated 17.1.1991 was issued for making some changes in the Master Plan/Zonal Development Plan under Section 44 of the Delhi Development Act, 1957 (for short, 'the Act').

Respondent Nos.1 and 2 challenged the amendment by filing writ petition under Article 226 of the Constitution. The learned Single Judge dismissed the writ petition. On appeal, the Division Bench reversed the order of the learned

Single Judge and quashed the conversion of some land in Pocket 11 into smaller plots for the purpose of allotment to jhuggi jhopri dwellers. The Division Bench relied upon the judgment of the co-ordinate Bench in Wazirpur Barton Nirmata Sangh versus Union of India and others [2003 III AD (Delhi) 508] and held that in view of that judgment the appellant cannot be permitted to change Zonal Plan and convert the acquired land into smaller plots for the purpose of allotment to those who were evicted from Yamuna Pustha. The Division Bench also referred to Section 8 of the Act and held that conversion of a plot into smaller plots requiring change of alignment and the change of the number of residential units can be done only in the Zonal Plan and not in the Layout Plan after following the procedure prescribed under Section 11A of the Act, which was

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not done.

We have heard learned counsel for the appellant and perused the record. Since no one has appeared on behalf of respondent Nos.1 and 2, we do not have the benefit of assistance of their advocate.

Shri Vishnu B. Saharya, learned counsel for the appellant referred to Zonal Development Plan (Annexure P3) to show that the plot which has been sub-divided was already earmarked for housing purpose and argued that no illegality was committed by deciding to allot the same to jhuggi jhopri dwellers who were shifted from Yamuna Pustha. Learned counsel argued that the Division Bench committed serious error by quashing the division of plot No.26 into smaller plots on the premise that the procedure prescribed under section 11A of the Act had not been followed.

We have considered the arguments of the learned counsel but do not consider it necessary to decide the appeal on merits because we are of the view that the matter deserves to be remitted to the High Court for fresh disposal of the letters patent appeal filed by respondent Nos. 1 and 2.

A perusal of the impugned judgment shows that it is mainly based on the judgment of the Division Bench of the High Court in Wazirpur Bartan Nirmata Sangh v. Union of India

(supra) whereby the policy framed by the Government of National Capital Territory of Delhi for rehabilitation/ resettlement/ accommodation of jhuggi jhopri dwellers was quashed. That judgment has been set aside by an order passed yesterday in Civil Appeal Nos.1688/2007 and 1691/2007 because counsel appearing for the writ petitioner - Wazirpur Bartan Nirmata Sangh sought and was granted leave to withdraw the writ petition.

In view of the above, this appeal is allowed. The impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of the letters patent appeal filed by respondent Nos.1 and 2.

.....J.
(G.S. SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI,
SEPTEMBER 8, 2010.

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ITEM NO.1 COURT NO.11 SECTION XIV

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

Petition(s) for Special Leave to Appeal (Civil) No(s).1805/2007
(From the judgement and order dated 30/01/2006 in LPA No. 2266/2005
& LPA No. 2267/2005 of The HIGH COURT OF DELHI AT N. DELHI)

DELHI DEVELOPMENT AUTH. Petitioner(s)
VERSUS
AJIT SINGH & ORS. Respondent(s)

Date: 08/09/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Vishnu B. Saharya, Adv.
Mr. Viresh B. Saharya, Adv.

For M/s Saharya & Co., A.O.R.

For Respondent(s)

Mr. P.P. Malhotra, A.S.G.
Mr. A. Mariaputham, Sr. Adv.
Mr. Rajiv Nanda, Adv.
Ms. Binu Tamta, Adv.
[For respondent no.4]

Ms. Rekha Pande, Adv.
Ms. Sadhana Sandhu, Adv.
[For respondent no.3]

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

In terms of signed order, this appeal is allowed. The impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of the letters patent appeal filed by respondent Nos.1 and 2.

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(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed Order is placed on the file)