

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8483 OF 2013
(arising out of SLP (C) No. 14680 of 2009)

U.P. STATE INDUSTRIAL DEVELOPMENT		
CORPORATION LIMITED & ANR.APPELLANT(S)	
VERSUS		
KAMLA NEHRU MEMORIAL TRUST & ANR.RESPONDENT(S)	

O R D E R

Leave granted.

This appeal has been preferred by the appellant - U.P. State Industrial Development Corporation and another - against the judgment and order dated May 27, 2009 passed by the Division Bench of the High Court of Judicature at Allahabad at Lucknow in Writ Petition No. 349 (M/B) of 2007.

By the impugned order, the Division Bench allowed the writ petition preferred by the respondents - Kamla Nehru Memorial Trust and another - with the following observations and directions:

"During the pendency of the petition the allotment of the petitioners was cancelled by the order dated 15.01.2007 which the petitioners have challenged through amendment application which was allowed by this Court.

After considering the averments made in the counter affidavit an order was passed on 12.03.2007 by which the petitioners were directed to deposit Rs.91,27,139.65 within a week and they were also directed to move an application for restoration of the allotment and in compliance of the said order a sum of Rs.91,27,13965 was deposited by the petitioners and an application for restoration was also moved.

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Sri Asit Kumar Chaturvedi, learned counsel for the opposite parties submits that the opposite parties have not encashed the demand drafts for Rs.91,27,139.65.

Since the allotment was cancelled during the pendency of the writ petition, we dispose of the writ petition with a direction to the opposite parties to restore the allotment order of the petitioners, irrespective of the order dated 15.01.2007, without charging any restoration amount, keeping in view the peculiar facts and circumstances of the case, within two weeks from the date a certified copy of this order is produced and the petitioners shall be bound to complete all the formalities in accordance with the allotment letter dated 18.09.2003. The petitioners shall also file an affidavit before the authorities concerned to the effect that they will complete

the floriculture project within a period of one year from the date the possession of the land is delivered to them.

Since we have already passed a direction to restore the allotment order in favour of the petitioners, the petitioners are directed to revalidate the demand drafts for Rs.91,27,139.65 before any order of restoration is passed.

The opposite parties shall execute the lease deed within four weeks and within this period the petitioners shall complete all the formalities required for execution of the lease deed and thereafter the opposite parties shall deliver the possession to the petitioners."

It is apparent from the impugned order that the respondents challenged the cancellation order dated January 15, 2007 by filing a petition for amendment in the writ petition. Admittedly, the Court, without discussing the validity of the order dated January 15, 2007, decided the matter in favour of the respondents and directed to restore

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the allotment and revalidate the demand drafts of '91,27,139.65 and to execute the lease deed in favour of the respondents.

Learned counsel for the parties accept that the High Court ought to have given reasons regarding validity of the order of cancellation dated January 15, 2007 before passing the impugned order.

In the circumstances, we are of the view that the case should be remitted to the Division Bench of the High Court for its decision on merits.

We, accordingly, allow this appeal, set aside the impugned judgment and order dated May 27, 2009, and remit the case to the Division Bench of the High Court for its decision on merits expeditiously.

No costs.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(V. GOPALA GOWDA)

NEW DELHI,
SEPTEMBER 23, 2013.

ITEM NO.206

COURT NO.13

SECTION XI

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).14680/2009

(From the judgement and order dated 27/05/2009 in WP No.349/2007 of the HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

U.P.STATE INDUSTL.DEVT.CORP.LTD.& ANR.

Petitioner(s)

VERSUS

KAMLA NEHRU MEMORIAL TRUST & ANR.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief)

Date: 23/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s)

Mr. Uday U. Lalit, Sr. Adv.
Mr. Ravi Prakash Mehrotra, Adv.
Mr. Vibhu Tiwari, Adv.
Mr. Abhinav Kumar Malik, Adv.

For Respondent(s)

Mr. A.K. Ganguli, Sr. Adv.
Mr. Sunil Kumar Jain, Adv.
Mr. Ram Raj, Adv.
Mr. Madhur Jain, Adv.

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

Leave granted.
The appeal is allowed.

|(N.S.K. Kamesh)

| |(Madhu Sudan)

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|Court Master

| |Court Master

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(signed order is placed on the file)