

Banarsidass Musadilal

Vs

State of Uttar Pradesh and Others

Civil Writ Petition No. 7433 of 1982

(D. A. Desai, D. P. Madon JJ)

23.11.1983

ORDER

1. Petitioner was desirous of setting up an industrial unit for manufacturing corrugated cardboard boxes. With this end in view, he made an application on May 21, 1976 for allotment of a plot admeasuring 420 sq. mtrs. to the second respondent which was set up by the first respondent under the Uttar Pradesh Industrial Area Development Act, 1976. After processing the application, petitioner was called upon by the second respondent to deposit 20 per cent. of the total premium as reserve money for the plot applied for by the petitioner at the rate of Rs 40 per sq. mtr. In compliance with this request, the petitioner deposited the requisite amount on October 19, 1977. Thereafter a plot bearing No. 72 situated in Block 'G', Sector 6, Noida, Ghaziabad admeasuring 372.10 sq. mtrs. at the rate of Rs 40 per sq. mtrs was allotted to the petitioner as per allotment letter Annexure P-4. The petitioner was then called upon to execute a license agreement and get the same registered on or before January 12, 1978. He was required to pay a sum of Rs 1105.20 P. as 30 per cent. of the allotment money. Petitioner deposited the requisite amount on January 12, 1978. Thereafter the petitioner was put in possession of the plot on May 12, 1978. Subsequently by February 27, 1980 petitioner paid Rs 73,000 being full and final payment in respect of price of the plot allotted to him. However, in April, 1980, petitioner received a letter from the second respondent threatening to cancel the allotment of the plot and he was called upon to show cause why the allotment should not be cancelled. Presumably the reason for threatened action was that the petitioner had not put up an industrial unit as promised by him. It appears that petitioner wanted to gain time to acquire experience for setting up the industrial unit which he proposed to set up. On June 19, 1981, the second respondent wrote a letter to the petitioner calling upon him to explain why, even though he was put in possession on May 12, 1978, he has not completed the construction as per the agreement entered into by him with the second respondent and called upon the petitioner to show cause why the allotment should on be cancelled. The second respondent granted extension of time to the petitioner to put up construction upto the plinth level by September 30, 1981 and the time was further extended upto December 31, 1981.

2. It appears that the petitioner could not keep up the time-bound programme and on May 29, 1982 informed the respondents that he was suffering from Disc Prelapse and that he has been advised rest in bed for 6 months and on this ground sought further extension of time. This requires appears to have filled on deaf ears and by the letter dated June 8, 1982 the second respondent informed the petitioner that since the construction of the factory building on the plot allotted to him has not been completed within the initially stipulated or the extended time, the allotment in favour of the petitioner has been cancelled. Petitioner was called upon to make representation, if any, he wanted to make against the proposed action within 30 days from the date of the receipt of the letter. The petitioner apprehending danger to his possession approached this Court by this writ petition under

Article 32 of the Constitution.

3. A notice was ordered to be issued to the respondents calling upon them to show cause why the petition should not be admitted and in the mean time ex parte stay against dispossession was granted.

4. One Mr D. B. Malik, Assistant Development Manager of the second respondent filed a counter-affidavit in reply to the petition. The main thrust of the counter-affidavit is that with a view to undertake rapid industrialisation in the State of Uttar Pradesh, various industrial estates were set up and plots were allotted on the specific understanding that the industrial units proposed to be set up must be brought into existence with the stipulated time. It was contended that if one to whom a plot is allotted cannot put up the construction with the stipulate time or even extended time, the idle unutilised plot becomes counter-productive to the purpose for which the second respondent was set up and other entrepreneurs who are in search of plots can be accommodated. It was therefore contended that as the petitioner was give liberal extension, the Court should not interfere with the order cancelling the allotment of the plot to the petitioner. It was stated that there are some allottees who are speculators in land and the Court should not encourage them.

5. We head Mr Kailash Vasdev, learned counsel for the petitioner and Mr O. P. Rana, learned counsel for the respondents.

6. It is clear that the petitioner has certainly not kept up the time schedule prescribed in the agreement containing condition subject to which the plot was allotted to him. It is equally true that he has been granted liberal extension. It would not be proper to accept his explanation that he could not put up the construction because he had to yet learn the trade and for which he was gaining experience before he could put up an industrial unit. If every plot-holder starts learning after allotment, the industrial estate cannot come up for decades and such a situation cannot be encouraged. It must also be conceded that the petition was given liberal extension and therefore his failure to keep to the time schedule stares into our faces. However, there are certain other circumstances which cannot be overlooked.

7. Petitioner is disabled person. In the International Year for the Advancement of Disabled Persons, the worked over a movement was started to grant facilities to the disable persons to be useful citizens by making them self-reliant. Petitioner has commenced construction and has almost reached the stage of production. If the allotment of the plot is now cancelled, all his investment and expertise which he may have gained, would be lost and the disabled person would be thrown to the mercy of others. Imbued by this approach alone we propose to give one more opportunity to the petitioner to successfully carry out his industrial enterprise.

8. Mr Rana stated that once an order allotting the plot is cancelled, the respondent can make a fresh allotment at the current price. Mr Rana further pointed out that the petition will have to pay Rs 40,000 for a fresh allotment. In our opinion, this would be too harsh an approach and it would be self-defeating in that the initial allotment and the work done on the plot would be rendered nugatory and the petitioner would be exposed to heavy price rise. Therefore, approaching the matter from the standpoint of enquiry and balancing the position of the petitioner vis-a-vis the object underlying the setting up of industrial estate, we direct that the petitioner shall pay Rs 20,000 in all to the respondents as price for fresh allotment but the allotment originally made will continue to stand and the order cancelling the allotment is quashed and set aside. The petitioner shall pay Rs 20,000 by monthly installment of Rs 1000 commencing from January 1, 1984 i.e. the first instalment will be

payable on February 1, 1984 and then the subsequent instalments shall be paid from month to month till the whose amount as directed herein is paid. Subject to this condition the order cancelling the allotment of the plot in favour of the petition dated June 8, 1982 Annexure P-1 to the petition is quashed and set aside. The petition succeeds to the extend herein indicated with no order as to costs.

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