

Jaipur Development Authority, Jaipur

Vs

Children's Academy, Jaipur and Another

Civil Appeal No. 10308 of 1995

(K. Ramaswamy, B. L. Hansaria JJ)

03.11.1995

ORDER

1. Leave granted.

2. This appeal by special leave arises from the judgment dated 10-11-1993 of the Division Bench of the High Court passed in DB Special Appeal No. 607 of 1991.

3. The facts are not in dispute. The first respondent is an educational institution which made a request to the appellant for allotment of 15,000 sq. yards of land in Malviya Nagar Scheme. By proceedings dated 12-8-1988, the appellant had informed the respondents that it had fixed the reserved price at Rs 160 per sq. metre for schools. Clause 5 says that the lease money can be changed after 15 years but it will not exceed 25% of the reserved price. Clause 15 of the offer envisages that on non-payment of the demanded amount within one month, the appellant will be entitled to realise interest and cancel the allotment. In case of acceptance, clause 16 sub-clause (ii) provides that "if you accept the allotment of the above conditions, please deposit the amount within one month as under". The details of the amount have been mentioned and the total amount to be deposited was Rs 20,31,820.90. Admittedly, the respondents had deposited only Rs one lakh. Thereafter, the Secretary to the appellant had communicated through a letter that the State Government had granted permission for allotment of the land at 25% of the reserved price to the respondent-Academy by letter dated 12-8-1988 and that is being returned. Then on 12-1-1990, pursuant to a letter written by the respondents on 6-7-1989, they also reiterated that they were willing to allot the land @ 25% of the then prevailing reserved price of the land and the amount mentioned thereunder has been specified. It was also stated expressly thus :

"Please see that the cost of the land is deposited in favour of the Secretary, JDA, Jaipur, within 30 days from the date of issue of this letter failing which the offer stands cancelled."

4. The allotment order dated 12-8-1988 was thereafter cancelled. Thus the previous allotment stood cancelled and fresh offer was made subject to the respondents depositing the amount stated thereunder within 30 day from the date of issue of the letter. Admittedly, the amount was not deposited, except writing a letter that the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 envisage that 50% of the prevailing reserved price was to be paid and the appellant's demand was illegal.

5. Rule which has been relied upon reads thus :

"No land shall be allotted for a price less than the sanctioned reserved price except for categories covered under Rule 17."

6. Rule 17 provides as under :

"17. Lands for schools and other public and charitable institutions may be allotted on payment of 50% of the sanctioned reserved price or with the prior permission of the State Government free of any charge or at concessional rates."

7. It would thus be seen that it may be incumbent upon the appellant to allot the land but in case they choose to allot, they may allot on payment of 50% of the sanctioned reserved price. It would be seen that in the first offer, the appellant had offered land @ Rs 160 per sq. metre as reserved price and the respondents had not complied with the same. As stated earlier, the offer stood cancelled. In 1990, when a second offer was made, even then also, it was not complied with. The respondents have relied upon the circular issued by the Government amplifying as to under what circumstances allotment may be made at a lesser price. The Circular dated 13-10-1987 is only guidelines for disposal of the lands for educational, religious, charitable or public institutions at concessional rate of 25% as the reserved price, but the instructions were to ensure uniformity in the allotment and charging the rates. The offer had been given charging @ Rs 160 per sq. metre in the first instance and the respondents had not paid the amount except Rs 1 lakh. Had they paid the amount at reserved price and claimed refund at 50% or 25%, as the case may, as per their own case, something could be said in their favour. But unfortunately they did not accept the offer which was conditional. They had chosen to deposit only Rs 1 lakh as against Rs. 21 lakhs. As stated earlier, the cancellation order was not challenged. When a fresh offer was made then also the respondents had not complied with the offer, instead they went to the court for a direction to give them allotment at concessional rate of 25% of original value at Rs 160 per sq. metre. The Division Bench had thus erroneously directed the allotment on payment of 25% of Rs 160 per sq. yard, which offer was no longer subsisting, since it was already cancelled. Under these circumstances, the order of the High Court is clearly illegal.

8. The appeal is accordingly allowed. The writ petition stands dismissed. No costs.