

Shantistar Builders

Vs

Narayan Khimalal Totame and Others

Civil Appeals No. 2598 of 1989 with No. 2599 of 1989

(Sujata V. Manohar, K. Ramaswamy, B. L. Hansaria JJ)

17.11.1995

ORDER

1. This Court by its judgment in Shantistar Builder v. Narayan Khimalal Totame, while disposing of the matter, directed in paragraphs 21 and 22 the State Government to constitute a committee for monitoring allotment of the houses to the weaker section, as per the scheme sanctioned while exempting the urban land under Sections 21 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act"). One of the members of the committee suggested was Additional District Judge be made available for enforcing the schemes in every agglomeration, so that the committee constituted by the State Government would effectively implement the schemes. This Court also impressed upon every committee to ensure fulfilment of the laudable purpose of providing a home to the poor homeless to effectuate its commitment to the constitutional goal and that every effort should be made by it to ensure that the builder does not succeed in frustrating the purpose. The State Government should suitably modify its scheme in the light of the judgment rendered in Shantistar Builders case and recirculate the same to all concerned within four weeks from the date of the judgment.

2. The State had filed an affidavit on 30-3-1990 seeking certain modifications or clarifications of the order. One of the modifications sought was that under the Act, the Deputy commissioner is the competent authority and an appeal was provided under the Act, except for Bombay and Pune, to the Additional Commissioner. For Pune and Bombay, the Commissioner would deal with the same. If the Additional District Judge was to supervise the functioning of the allotment as per the scheme sanctioned under Section 21 of the Act, it would be inconvenient to the appellate authority to consider the scheme under the Act.

3. The entire thinking of the Government is wholly misconceived. The committee had nothing to do with the provisions of the Urban Ceiling Act. After the exemption under Section 20 or 21 is granted, the building is required to implement the scheme in terms of the sanction made by the Government for construction of buildings by the builders and allotments to weaker section people. This Court intended to ensure that the builders would abide by the guidelines laid down by this Court in the light of the judgment. The committee would supervise the allotment of the houses to the homeless weaker section people in the light of the guidelines laid down therein. The State Government was also directed to recirculate the revised schemes in the light of the above judgment. In the circumstances, the question of the Commissioner sitting in an appeal over the working of the committee does not arise.

4. It is submitted that the taking away of the discretionary power of the Government in allotment of the houses is not justified. We do not propose to modify our earlier direction. The Government is

directed to comply with the constitution of the committee within 30 days from the date of the receipt of this order, since the same has already been delayed for more than five years from the date of the judgment constituting the committee.

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5. Rest of the matters are adjourned to next week.