

**SUPREME COURT OF INDIA**

U. P. Resi. Emp. Co-op. House B. Society

Vs.

N.O.I.D.A.

C.A.No.5502 of 1983

(S. N. Variava and B. N. Agrawal JJ.)

07.03.2003

**ORDER**

1. Very briefly stated facts leading to this application are that for development of Noida, lands belonging to the applicant Society and its members, were acquired. The State Government formulated a policy to allot some developed plot to the members of the Society. As disputes arose during the implementation of that policy, Writ Petition was filed in the Allahabad High Court. Against orders in that Writ Petition a Civil Appeal was filed in this court.

2. By an order dated 3rd of May, 1990, certain directions were issued on the basis of a consensus arrived at between the parties. It was agreed and so recorded that allotments be made either in Sectors 40, 41 or 42 and if sufficient number of plots were not available in these sectors then in adjoining sectors. The plots were to be developed by Noida within a period of nine months and the price of the plot was to be at the rate of Rs.1000/- per sq. meter.

3. It appears that 242 members could not be accommodated. Again this court was approached. On 4th April, 1991, statement of counsel for NOIDA was recorded and following order passed:

"As against this suggestion made by the society, counsel for NOIDA states that pursuant to the judgment rendered by this Court in *Hiralal Chawla's case*<sup>1</sup> the surplus 9.68 acres would revert to NOIDA and therefore the society cannot be permitted to utilise that land in the name of accommodating 242 members. Learned counsel for NOIDA, however, fairly states that if the said 242 members belong to the lower income groups NOIDA would be willing as a special case to prepare a housing scheme for them and accommodate them in the surplus 9.68 acres of land or the such lesser area as may be required having regard to the total out of such members desiring to have residential accommodation there. He also stated that NOIDA itself would be able to arrange loans for such persons at low rate of interest and would ensure that the payment of instalment is arranged keeping in mind their financial capacity to pay.

This, says counsel for NOIDA would be in keeping with the decision of this Court in Hiralal Chawla's case (supra).

The anxiety of all concerned is therefore to ensure residential accommodation to the left out 242 members of the petitioner society who could not make the payments on the due date on account of their financial incapacity. If this anxiety is met by NOIDA, we do not see any reason why NOIDA itself member of such of them as would desire to be accommodated on such part of the remaining land admeasuring 9.68 acres which would revert to NOIDA in terms of this court's aforesaid judgment. The names of such members who were members on the cut off date i.e. 1st May, 1986 may be furnished by the petitioner society within four weeks from today. After the names are so furnished it will be for NOIDA to ascertain how many out of them desire to be accommodated under the housing scheme floated by it. After ascertaining the same NOIDA will determine the extent of land which would be required for the scheme to accommodate those who desire to be accommodated. If on that basis the entire area of 9.68 acres of land is not required to be utilised, the surplus land will remain with NOIDA to be utilised in such manner as it deems proper. NOIDA will after ascertain from the 242 members their wishes in regard to being accommodated float a scheme within two months from the date when it has received the replies from the 242 members and thereafter proceed to raise the construction as early as possible. We may make it clear that it was in the special circumstances of this case and having regard to the manifold increase in the price of land that the 242 members were unable to meet their increased financial obligation having regard to their financial limitations. We feel inclined to think that it was unfair to deprive such members of an opportunity to secure their own residential accommodation because of the intervening circumstances, particularly the manifold rise in the land price. It was for this reason that we impressed upon the learned counsel for NOIDA to take a liberal view. Despite his initial hesitation and reluctance he was good enough to consult his officers and to treat this as a special case having regard to the peculiar developments. His initial hesitation or reluctance was only because he was afraid that this may be cited as a precedent in future. His apprehension was dispelled when he saw the justness of the matter in the special and peculiar circumstances mentioned earlier. With the above direction IA No.of 1980 is disposed of."

4. It appears that again some disputes arose. Both sides blame each other for the delay. We thought it appropriate that instead of court going into the controversy, the matter should be resolved as per earlier orders. As seen housing scheme has to be developed by NOIDA for these persons and it has to be in Sectors 40, 41 or 42. No plots seem to be available in Sectors 40 and 41. Noida authorities claimed that no plots were available in Sector 42.

5. Noida Authorities insist that the scheme now be in some other sector instead of Sector 42. The applicants have insisted that plots are available in Sector 42.

6. This court, therefore, directed NOIDA authorities to set out on affidavit whether or not plots were available in Sector 42. An affidavit was filed by Noida authorities stating that in

Sectors 42 and 43 land had already been allotted to Kendriya Karamchari Society and the dispute regarding membership of the society was pending before the Allahabad High Court. It was disputed that all plots in Sector 42 had been allotted. Court therefore directed Noida authorities to verify and state on affidavit the details of such allotment.

7. Pursuant to the direction of this Court, one Mr. S. C. Pabreja, has filed an affidavit in this court (which was verified on 3rd February, 2003), wherein it is inter alia stated as follows :

"The aforesaid matter came up for hearing on 17-1-2003, in which a submission was made on behalf of applicant and the respondent society, that despite the fact that the land is still available for the construction of 242 LIG flats in Sector 42 itself, NOIDA AUTHORITY has filed an affidavit, saying that no land is available in the said sector.

In this view of the matter the Hon'ble Court was pleased to adjourn this case for 24-1-2003. On the said date an affidavit was submitted on behalf of NOIDA, saying that, the entire land of sector 42 has already been allotted for residential and other purposes and no land is available in Sector 42.

After hearing the parties, the Hon'ble court was of the view, that NOIDA must file a detail affidavit, giving the names and the area allotted to each member of "Kendriya Karamchari Society", who have been allotted plots in Sector 42. In these circumstances the list of the said members who have been allotted plots in Sector 42 is being annexed here with and marked as Annexure-A/1."

8. A detailed list has been annexed to this affidavit. Thus it is to be seen that on solemn affirmation, it is sought to be contended before this court that there is no plot available in Sector 42. It must be remembered that this affidavit is filed, in view of the controversy as to whether or not any plot was available in Sector 42 on that date. As this statement was seriously disputed. This court asked Noida authorities to state on affidavit whether or not these allotments were cancelled at any time.

9. Now one Mr. Ashok Kr. Verma has filed an affidavit wherein it is admitted that the allotments in favour of Kendriya Karmachari Society have been cancelled and the money refunded. It is still sought to be made out as if some Writ Petition is pending in the Allahabad High Court. On a question, from court, it is admitted that there is no order, against Noida Authority in that writ Petition, preventing them from re-allotting the land. It is not denied that Writ Petition pertains only to inter se dispute between the members of that society.

10. It, therefore, prima facie appears that Mr. S. C. Pabreja has filed a false affidavit before this court with a view to mislead this Court and with a view to see that this court does not pass any order, adverse to what Noida Authority is contending.

11. It has been held in the case of Hiralal Chawala and Anr. v. State of U.P. and Ors. reported in that filing of false affidavit also amounts to Contempt of this Court. The Registry is, therefore, directed to issue show cause notice to Sh. S. C. Pabreja, returnable before us

within four weeks from today, as to why action in contempt should not be taken against him for having filed a false affidavit in this court.

12. As it is now clear that plots are available in sector No. 42, NOIDA Authorities are directed to comply with the directions of this court dated 4th of April, 1991 and to develop and bring before this Court a Housing Scheme for these 242 members in Sector 42. This to be done within four weeks from today.

13. The matter to be placed after four weeks from today.  
Order accordingly.

<sup>1</sup>(1990(2) SCC 149)