

Date - 23-04-98

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2469 OF 1998
(Arising out of S.L.P.(C) No. 180 of 1995)

Certified to be true copy
Assistant Registrar (Judl.)
15/98
Supreme Court of India

2000881

Registrar, Co-operative Societies ... Appellants

Versus

Mahafshi Dayanand Co-operative
Housing Society & Org. ... Respondents

WITH

CIVIL APPEAL NOS. 2470 & 2471 OF 1998
(Arising out of S.L.P.(C) Nos. 13828 & 19149 of 1994)

ORDER

Leave granted.

Heard learned counsel appearing for the respective parties. These appeals arise out of the special leave petitions Nos. 13828 of 1994, 19149 of 1994 and 180 of 1995 filed respectively by the Delhi Development Authority, Union of India and Registrar Co-operative Societies, Delhi assailing the common judgment and order dated 27th of August, 1993 passed in Civil Writ Petition No. 3177 of 1990, by the Delhi High Court. By the impugned order, the Delhi High Court has quashed Notification No. F-9(56)/75-L & B/14286 dated 1st of June, 1980, issued under Section 4 and 17 of the

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Land Acquisition Act, 1894 for acquiring 24 bighas and 7 biswas of land in village Kasoompur, Tehsil Mehrauli, Delhi. The Delhi Development Authority has directed to consider the building plans which would be submitted by the respondent - Maharshi Dayanand Cooperative Group Housing Society Limited, which purchased the land since released from the acquisition proceedings by the judgment of the High Court. Maharshi Dayanand Cooperative Group Housing Society Limited had purchased about 5 hectares of land for construction of residential flats for its 181 members. It appears that the list of 181 members was duly approved by the Registrar, Cooperative Societies, Delhi and such fact has been noticed in the impugned judgment. It also appears that the Registrar, Cooperative Society and the Union of India in their respective special leave petitions, have filed the complete list of these 181 members. During the course of hearing on 18th of February, 1998, this Court passed an order directing the D.D.A. to identify a compact block to be offered to the Cooperative Society for the purpose of delivery of the residential flats. On 25th March, 1998, when the matter was again taken up for hearing, the

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appellant Delhi Development Authority produced the brochure published by the DDA, relating to the proposed project called International Hotel Complex - Vasant Vihar. The disputed land is situated within the area earmarked for the said proposed project. It transpires that some of lands were earmarked in MPD-2001 for residential purpose directing the revision of the land use of 100 hectares by letter dated 27th of June, 1998. By the said letter, the area of 100 hectares initially, earmarked for residential purpose, was reduced to 35 hectares only. Consequently, the Zonal Development Plan of Zone F (South Delhi-I) in which the land in dispute is situated, was changed in 1997, by D.D.A. in terms of the directions of the Central Government. Pursuant to the directions of this Court given on 25th of March, 1998 further records were produced for perusal of this Court. The Master Plan for Delhi-2001 has prescribed the following norms for residential plot Group Housing. "Residential Plot - Group Housing (002) Minimum size of plot - 4000 (sq.m.), maximum plot coverage 33.33%, maximum floor area ratio 133 maximum height 28 m, Other controls." The net housing density permissible shall be 140 Dws per hectare with 15

per cent variation on either side. This should be indicated in the Zonal Plan/Lay out plan taking into consideration the gross residential density prescribed for the area. At the premises level, the maximum variation of net density shall be 5 per cent.

The land purchased by the Society is 24 bighas and 7 biswas which is approximately 2 hectares. According to the norms prescribed by the Master Plan of Delhi-2001, the Society is entitled to 1.5 hectares of land in compact block, within the 35 hectares of land earmarked for residential purpose in the project known as The International Hotel Complex, Vasant Vihar, New Delhi. The said compact block 1.5 hectares would be in exchange for the total land of the Society which is subject matter of dispute in these appeals. If the Society is given said 1.5 hectares of land in the compact block, the Society will not be entitled for any monetary compensation for the area of its land given in exchange. The right of the Society to build will be subject to the approval of the Competent Authority, namely, Environmental, Impact Assessment Authority for

the proposal submitted by the DDA. In case the Authority grants approval to the proposal, the DDA shall immediately inform the Society and identify the compact block of 1.5 hectares which will be given to the Society in exchange. It is further made clear that if on scrutiny it transpires that there was a change in the membership of the respondent-Society, it will be open to the DDA to diminish the compact block on the pro rata basis. The aforesaid order has been passed by us as it appears to us that in any event, the respondent-Society proposing to ^{construct} ~~considering~~ the residential flats should not be denied the said compact block. The question of law agitated in these appeals are not required to be gone into for disposal of these appeals and the same are kept open to be decided in appropriate case.

These appeals are accordingly disposed of.
There will be no order as to costs.

(G.N. Ray)

New Delhi,
April 23, 1938.

(G.B. Pattanaik)