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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1766/2018 & CM APPL. 51290/2019

GP CAPT BHAGAT SINGH DAULTA & ORS. Petitioners

Through: Mr. Chandrachur Bhattacharyya,
Adv.
M: 9810878919
Email:
chandrachurbhattacharyya@gmail.com

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Ms. Beenashaw N. Soni, ASC with
Ms. Ann Joseph, Adv. for DDA.
M: 9205230113
Mr. Tushar Sannu & Mr. Devrat
Tiwari, Advs. for MCD.
M: 8265972618
Ms. Madhurima Ghosh, Adv. for R-4.
M: 9650276182
Mr. Zakir Hussain, Adv. for R-5 to
33.
M: 9811142718
Email: zakiradv0@gmail.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
01.03.2024

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1. The present writ petition has been filed praying for directions to the respondent no.1-Delhi Development Authority ('DDA') to issue Completion Certificate to Air Force Naval Officers Co-operative Group



Housing Society Ltd. situated at Plot No. 11, Sector-7, Dwarka, New Delhi-110075. There is further prayer for directions to respondent to initiate action for any unauthorized construction in the said Society.

2. Learned counsel appearing for the petitioners submits that the application of the Society for issuance of Completion Certificate has been pending with the DDA since the last nineteen years and no progress has been made thereto, in view of the various unauthorized, illegal constructions and structural alterations existing in the flats situated in the Society.

3. Per contra, learned counsel appearing for the DDA submits that at present no application of the Society is pending with the DDA. She submits that the earlier application of the Society for issuance of Completion Certificate has already been rejected on 26th July, 2012.

4. She further submits that there has been modification in the policy of the DDA for grant of Completion Certificate. Thus, she submits that the Society is required to now file a fresh application for purposes of obtaining a Completion Certificate.

5. Learned counsel appearing for respondent no. 4-Managing Committee of the Society submits that the Managing Committee of the Society shall do the needful. She submits that the application for Completion Certificate could not be filed by the Managing Committee with the DDA, in view of the *inter-se* disputes amongst the various members of the Society.

6. Responding to the aforesaid, learned counsel appearing for the petitioner relies upon letter dated 18th March, 2014 issued by the DDA, wherein the DDA has stated that the Completion Certificate shall be issued only after the non-compoundable deviations are removed from the Society.

7. I have heard learned counsels for the parties and have perused the



record.

8. At the outset, it would be fruitful to refer to the letter dated 18th March, 2014 issued by the DDA, which reads as under:

*“DELHI DEVELOPMENT AUTHORITY
BUILDING (L & I UNIT)
1st floor, C-1 Block,
Vikas Sadan, INA New Delhi-p23*

No.F.23(3)34/Bldg./109

Dated 18/03/14

To

*Shri S.K. Chaturvedi,
Air Vice-Marshal (Retd.),
Chairman Sub Committee,
Air Force and Naval CGHS Ltd.,
Plot No.11, Sector-7,
Dwarka, New Delhi-75*

Sub: Completion Certificate in respect of Air Force & Naval CGHS Ltd. at plot No.11, Sector-7, Dwarka, New Delhi.

Ref: AF No/201/27 dated 3rd Jan, 2014.

Sir,

Kindly refer to your letter dated 3.01.2014 on the above cited subject. In this regard, it is to intimate that the processing of regularization of compoundable deviation will be taken up only after removal of non compoundable deviation by the Society itself or by DDA as per D.D. Act, 1957 provisions.

In case Society is able to remove all the non-compoundable deviation within stipulated period of two months then Society has to submit the photographs of removal of same to this office in support of proof. In case, Society is unable to do so, then a joint inspection will be carried out and SCN as per D.D. Act will be issued for removal of the unauthorized construction.

AE-III(Bldg.)/L&I”

9. Perusal of the aforesaid clearly shows that it is the categorical stand of



the DDA that case of the Society for issuance of Completion Certificate can be considered only after the Society removes all the non-compoundable deviations which exist in the Society.

10. This Court also notes the stand of the DDA, as reflected in the affidavit filed by the DDA, relevant portions of which are extracted herein below:

“xxx xxx xxx

3. That the present petition is not maintainable as the prayer made in the petition for issuance of Completion Certificate (CC) cannot be acceded to since the Petitioner Society has not even applied for issuance of CC. The applicant has to apply for issuance of CC which can also be done online, thereafter the respondent will examine the application and also carry out inspection of premises. The CC is issued only if all the necessary requirements as per rules are met with. However in the present case the Petitioner Society has not even applied for grant of CC, therefore there is no question of respondent granting the same to petitioner. The Petition for grant of CC is thus not maintainable.

4. The petitioner society had applied permit for revised LOP & Building plan on 18-5-2005, without depositing any building permit fee, however still the respondent carried out the inspection of the premises and found some unauthorized constructions on the site. In view of this the building permit was not issued to the petitioner. The Petitioner Society thus again submitted request for revised sanction on 23/4/2012 along with building permit fee of Rs. 95,000/-. The revised sanction permit filed by Petitioner also could not be processed as the Hon'ble LG of Delhi issued a Public Notice implemented w.e.f 23-4-12 that the revised sanction received from Group Housing Societies for Utilization on addition FAR as per MPD 2021 shall be approved only on Additional Tower/Block and will not be granted on existing structures as the same could compromise the structural Safety of existing building and the safety of inhabitants. The copy of the Public Notice issued on 13-9-12 is annexed as Annexure-A. The building permit of petitioner society was thus rejected on 26-7-2012 in terms of the Public Notice/notification.

5. That the Ministry of Urban Development (MOUD) in the year 2016 again issued a modification in the earlier notification, a fresh



Notification was issued vide notification S.O. No. 2690 (E) on 11-8-2016 with respect to addition/alteration of existing DU's for availing balance FAR and ground coverage upto 40%. The notification dt. 11-8-2016 is annexed as Annexure-B. A public notice was also issued on 16-11-2016 stating that the previous Public Notice issued on 13-9-2012 stands superceded by the present notice. The public notice dt. 16-11-2016 is annexed as Annexure-C. The fresh permits now have to be evaluated in terms of this notification.

6. That the respondent as on date does not have any pending building permit of the petitioner society. The Petitioner Society now has to apply afresh in terms of 2016 notification of MOUD. The respondent DDA will then consider the said application of the petitioner society as per MOUD notification and MPD 2021.

7. In view of this it is submitted that as and when the Petitioner Society will apply for fresh permit for additional FAR or for issuance of CC the same will be considered as per latest law/rules/notification prevailing at that time. In order to avail the balance FAR in the existing building the MC of the Society has to submit a case of revised sanction as per provisions of UBBL-2016 notified vide SO 1191(E) ddt.22-3-2016 and its amendments which are annexed as Annexure-D.

xxx xxx xxx”

(Emphasis Supplied)

11. Reading of the aforesaid affidavit clearly manifests that it is the clear stand of the DDA that no application of the Society for issuance of Completion Certificate, is pending with the DDA. Further, this Court notes the submission made by the counsel for the DDA that the letter dated 18th March, 2014 issued by the DDA was only in the nature of information with respect to taking requisite action by the Society for the purposes of removal of non-compoundable deviations. Thus, it is clear that as of today there is no application which is pending with the DDA for the purposes of issuance of Completion Certification to the Society.

12. This Court further notes the submission of learned counsel appearing for the DDA that it is for the Managing Committee of the aforesaid Society



to take steps to apply to the DDA for issuance of a Completion Certificate.

13. Considering the aforesaid, this Court passes the following directions:

I. DDA shall carry out a fresh inspection of the various flats existing in the Society within a period of twelve weeks from today.

II. Upon inspection, if any deviations/unauthorized construction are noticed, the same shall be communicated to the Managing Committee of the Society.

III. On receipt of the information from DDA as regards any deviations/unauthorized construction that may exist in the flats in the Society, the same shall be intimated to the respective occupants/owners of the flats. The communication received from the DDA after inspection by the DDA, shall also be displayed by the Society at a conspicuous place in the Society.

IV. Upon receipt of the aforesaid information regarding deviations/unauthorized construction from the DDA, within four weeks thereafter, the respective members of the Society shall take appropriate steps to apply to the DDA for getting their construction regularized/compounded.

V. Upon receipt of such applications for regularizing/compounding of existing construction from members of the Society, the DDA shall consider and dispose of the applications within a period of twelve weeks.

VI. The owners/occupiers of the respective flats shall take requisite steps for removing the unauthorized construction/non-compoundable deviations in terms of the order of the DDA, within a period of ten weeks thereafter.

VII. In case the unauthorized construction/non-compoundable deviations existing in the flats are not removed by the respective owners/occupants within a period of ten weeks of passing of the order by the DDA, then, DDA



shall take requisite action for removal of such unauthorized construction/deviations, within a period of ten weeks.

VIII. Upon removal of the unauthorized construction/deviations from the existing flats, the respondent no. 4 -Managing Committee of the Society, shall apply to the DDA within four weeks thereafter, for issuance of a Completion Certificate to the Society.

14. It is directed that the aforesaid timelines shall be adhered by the respective parties.

15. Present petition is disposed of, in terms of the aforesaid directions.

MINI PUSHKARNA, J

MARCH 1, 2024/kr