

Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Heard Sri Navin Sinha, learned Senior Advocate assisted by Sri Rohan Gupta, learned counsel appearing for the petitioner, learned Standing Counsel for respondent no. 1 and Sri M.C. Chaturvedi, learned Senior Advocate assisted by Sri Gaurav Tripathi, Syed Imran Ibrahim and Sri Kamaljeet Singh, learned counsel appearing for the respondent no. 2.

The Court vide order dated 25.2.2020 passed the following order :

"1. Heard Sri Rakesh Dwivedi, Senior Advocate, Assisted by Sri Vishal Gupta, Rohan Gupta, Ms. Sansriti Pathak, Sri Raghav Dwivedi, Advocates and Sri Naveen Sinha, Senior Advocate, assisted by Ms. Kalpana Sinha, Sri Kali Gupta & Sri Shivam Shukla, Advocates, learned counsels appearing for petitioners and Sri M.C. Chaturvedi, learned Senior Advocate, assisted by Sri Amar Gupta, Sri Gaurav Tripathi and Sri Syed Imran Ibrahim, learned counsels appearing for respondent-2.

2. This matter was released initially by a Division Bench of Hon'ble Abhinava Upadhyaya and Hon'ble Shamim Ahmad, JJ, vide order dated 20.02.2020. Thereafter, it was nominated to the Bench of Hon'ble B.K. Narayana and Hon'ble Prakash Padia, JJ, and again Bench of Hon'ble Mr. Justice B.K. Narayana, released it vide order dated 24.02.2020. Thereafter Hon'ble the Chief Justice has nominated it to the Bench presided by one of us (Sudhir Agarwal, J.) vide order dated 24.02.2020 and that is now this has come up to this Court.

3. Petitioner-M/S Jai Prakash Associates Ltd. has challenged order dated 12.02.2020 passed by Chief Executive Officer, Yamuna Expressway Industrial Development Authority (hereinafter referred to as 'YEIDA') cancelling allotment of land to petitioner in Sector-25 under Special Development Zone Scheme, vide six allotment letters of different dates. Land allotted to petitioner-M/S Jai Prakash Associates Ltd. under Special Development Zone. Policy is detailed in the impugned order as under:

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4. In all about 1000 and odd hectares of land was allotted to petitioner. Thereafter lease-deeds were also executed on different dates, details whereof as given in the impugned order as under :

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5. According to respondents-'YEIDA', petitioner committed default in payment of leased rent, premium and interest, therefore, entire allotment has been cancelled, by referring to condition 4.2 of allotment letter by impugned order.

6. Learned Senior Advocate Sri Dwivedi, appearing on behalf of petitioner as a matter of fact did not dispute that there are some dues in respect whereof petitioner has committed default in payment. Reasons explained therefor is a serious financial crisis found by Real Estate Sector etc. It is, however, submitted that substantial developments have been made on the land allotted to petitioner; payment of 2,379.74 crores has been made and only a sum of

Rs.359.81 crores was outstanding on 31.07.2017.

7. It is contended, when substantial developments have already taken place, respondents could not have cancelled the entire allotment, particularly, when allotment has already converted into lease deeds, which have not been cancelled; and, default is in respect to some part of amount, but entire allotment has been cancelled, which is arbitrary and only proportional cancellation in respect of land in question at the best could have been made.

8. In our view matter requires consideration.

9. Sri M.C. Chaturvedi, learned Senior Advocate appearing for respondent-2 prays for and is allowed three weeks' time to file counter affidavit. Petitioner may file rejoinder affidavit within ten days' thereafter.

10. Counsel for petitioner have also prayed for interim relief, it is said that after passing impugned order, respondents are allegedly proceeding to take over possession of entire allotted land. In respect of the amount of outstanding dues as on today, there is some dispute between the parties. According to Sri Dwivedi Rs.225 crores is outstanding as on date, since there is default in payment of two instalments, while according to respondent-2 that amount is to Rs.287 crores.

11. After addressing the Court for sometime, learned counsel for both parties have agreed to the conditions stated below, subject whereto parties may observe status quo. We therefore pass order in the following manner:

(i) Petitioner-M/S Jai Prakash Associates Ltd. shall deposit Rs.100 crores with respondent-2 within one month but in two parts. Rs.50 crores shall be paid by 10th of March, 2020 and another Rs.50 crores shall be paid by 25th of March, 2020.

(ii) Subject to payment of aforesaid amount, parties shall maintain status quo as on the date, in respect of property in dispute.

(iii) We make it clear that in case petitioner fails to deposit Rs.50 crores by 10th of March, 2020, this interim protection shall automatically stand vacated and respondents shall be free to proceed further.

(iv) Similarly, if first instalment of Rs.50 crores is paid but default is committed in compliance of direction with respect of payment Rs.50 crores payable upto 25th of March, 2020, in that case also interim protection granted by this Court shall stand automatically vacated and respondents shall be free to proceed further.

12. As agreed by the parties, list this matter on 01.04.2020 for final disposal."

Learned counsel for the petitioner submits that in compliance of the order dated 25.2.2020, the petitioner company has deposited a sum of Rs.50 crore on 9 March, 2020 and due to unprecedented Covid-19 pandemic, the company could not deposit Rs.50 crore by 25 March, 2020, as directed by the Court. However, the petitioner company has deposited Rs.5 crore on 16 March, 2020. He further submits that the petitioner is ready to deposit the remaining amount within a week.

Learned counsel for the respondent no. 2 submits that till date an amount of Rs.52,50,26,551/- remains due to be paid by the petitioner as the remaining amount of Rs.45 crore had not been deposited within the stipulated time.

In the above conspectus, the petitioner company is directed to deposit Rs.52,50,26,551/- within a week from today with the respondent no. 2. It is further directed that after deposit of

the aforesaid amount, in case the petitioner moves an application for recomputing the dues payable by the petitioner, the same shall be considered by the respondent authority in accordance with law, after giving due opportunity of hearing.

A compliance affidavit shall be filed by the petitioner by the next date of listing.

List the matter on 1 March, 2021.

In the meantime, learned counsel for the petitioner is directed to file a supplementary affidavit impleading the newly permitted respondents, which shall be treated as part of the writ petition.

Order Date :- 8.2.2021

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Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Order on Civil Misc. Impleadment Application No. 15 of 2020

This is an impleadment application moved on behalf of Canara Bank to implead the bank as respondent no. 6 in the array of the parties in the present petition.

Heard Sri Ravi Kant, learned Senior Advocate assisted by Sri Arvind Srivastava, learned counsel for the applicant and Sri M.C.Chaturvedi, learned Senior Advocate assisted by Sri Gaurav Tripathi, Syed Imran Ibrahim and Sri Kamaljeet Singh, learned counsel appearing for the respondent no. 2.

Learned counsel for the applicant submits that the applicant is a necessary and interested party in the present petition on account of being a mortgagee of certain parts of the land, which were allotted to the petitioner company by the respondent no. 2, and the respondent no. 2 while cancelling the allotment in favour of the petitioner vide order dated 12.2.2020 has not considered the interest of the bank and the cancellation order has been passed without affording any opportunity of hearing to the applicant. He further submits that in case the respondent no. 2 allots the said land to any third party, then it would be difficult to recover the amount, which runs to Rs.500 crore, from the mortgage property. He also submits that in case the applicant is not heard, their right will seriously be affected.

Sri M.C.Chaturvedi, learned Senior Advocate appearing for the respondent no. 2 has vehemently opposed the impleadment application. However, he submits that he may also be supplied the copy of the impleadment application to assist the Court.

Learned counsel for the applicant shall supply a copy of the impleadment application to the counsel appearing for the respondent no. 2 within a week.

In the above conspectus, let the Canara Bank be impleaded as respondent no. 6 in the array of the parties of the present petition.

The impleadment application is allowed.

Order Date :- 8.2.2021

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Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Order on Civil Misc. Impleadment Application No. 5 of 2020

This is an impleadment application moved on behalf of ICICI Bank to implead the bank as respondent no. 3 in the array of the parties in the present petition.

Heard Sri Rahul Agarwal, learned counsel for the applicant and Sri M.C.Chaturvedi, learned Senior Advocate assisted by Sri Gaurav Tripathi, Syed Imran Ibrahim and Sri Kamaljeet Singh, learned counsel appearing for the respondent no. 2.

Learned counsel for the applicant submits that the applicant is a necessary and interested party in the present petition on account of being a mortgagee of certain parts of the land, which were allotted to the petitioner company by the respondent no. 2, and the respondent no. 2 while cancelling the allotment in favour of the petitioner vide order dated 12.2.2020 has not considered the interest of the bank and the cancellation order has been passed without affording any opportunity of hearing to the applicant. He further submits that in case the respondent no. 2 allots the said land to any third party, then it would be difficult to recover the amount, which runs to crores of rupees, from the mortgage property. He also submits that in case the applicant is not heard, the rights of consortium of Lenders will seriously be affected.

Sri M.C.Chaturvedi, learned Senior Advocate appearing for the respondent no. 2 has vehemently opposed the impleadment application. However, he submits that he may also be supplied the copy of the impleadment application to assist the Court.

Learned counsel for the applicant shall supply a copy of the impleadment application to the counsel appearing for the respondent no. 2 within a week.

In the above conspectus, let the ICICI Bank Ltd. be impleaded as respondent no. 3 in the array of the parties of the present petition.

The impleadment application is allowed.

Order Date :- 8.2.2021

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Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Order on Civil Misc. Impleadment Application No. 10 of 2020

This is an impleadment application moved on behalf of Axis Bank Limited to implead the bank as respondent no. 4 in the array of the parties in the present petition.

Heard Sri Rahul Agarwal, learned counsel for the applicant and Sri M.C.Chaturvedi, learned Senior Advocate assisted by Sri Gaurav Tripathi, Syed Imran Ibrahim and Sri Kamaljeet Singh, learned counsel appearing for the respondent no. 2.

Learned counsel for the applicant submits that the applicant is a necessary and interested party in the present petition on account of being a mortgagee of certain parts of the land, which were allotted to the petitioner company by the respondent no. 2, and the respondent no. 2 while cancelling the allotment in favour of the petitioner vide order dated 12.2.2020 has not considered the interest of the bank and the cancellation order has been passed without affording any opportunity of hearing to the applicant. He further submits that in case the respondent no. 2 allots the said land to any third party, then it would be difficult to recover the amount, which runs to crores of rupees, from the mortgage property. He also submits that in case the applicant is not heard, their right will seriously be affected.

Sri M.C.Chaturvedi, learned Senior Advocate appearing for the respondent no. 2 has vehemently opposed the impleadment application. However, he submits that he may also be supplied the copy of the impleadment application to assist the Court.

Learned counsel for the applicant shall supply a copy of the impleadment application to the counsel appearing for the respondent no. 2 within a week.

In the above conspectus, let the Axis Bank Limited be impleaded as respondent no. 4 in the array of the parties of the present petition.

The impleadment application is allowed.

Order Date :- 8.2.2021

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Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Order on Civil Misc. Impleadment Application No. 7 of 2020

This is an impleadment application moved on behalf of Standard Chartered Bank to implead the bank as respondent no. 5 in the array of the parties in the present petition.

Heard Sri Rahul Agarwal, learned counsel for the applicant and Sri M.C.Chaturvedi, learned Senior Advocate assisted by Sri Gaurav Tripathi, Syed Imran Ibrahim and Sri Kamaljeet Singh, learned counsel appearing for the respondent no. 2.

Learned counsel for the applicant submits that the applicant is a necessary and interested party in the present petition on account of being a mortgagee of certain parts of the land, which were allotted to the petitioner company by the respondent no. 2, and the respondent no. 2 while cancelling the allotment in favour of the petitioner vide order dated 12.2.2020 has not considered the interest of the bank and the cancellation order has been passed without affording any opportunity of hearing to the applicant. He further submits that in case the respondent no. 2 allots the said land to any third party, then it would be difficult to recover the amount, which runs to crores of rupees, from the mortgage property. He also submits that in case the applicant is not heard, the rights of consortium of Lenders will seriously be affected.

Sri M.C.Chaturvedi, learned Senior Advocate appearing for the respondent no. 2 has vehemently opposed the impleadment application. However, he submits that he may also be supplied the copy of the impleadment application to assist the Court.

Learned counsel for the applicant shall supply a copy of the impleadment application to the counsel appearing for the respondent no. 2 within a week.

In the above conspectus, let the Standard Chartered Bank be impleaded as respondent no. 5 in the array of the parties of the present petition.

The impleadment application is allowed.

Order Date :- 8.2.2021

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Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Civil Misc. (Intervention) Application No. 23 of 2020

This is an application moved on behalf of JayPee Kassia Welfare Society to implead it as respondent no.7 in the array of the parties in the present petition.

Heard Sri Kartikeya Saran, learned counsel for the applicant and learned counsel for the petitioner.

Learned counsel for the applicant submits that the applicant society may be arrayed as respondent in the present petition as the members of the applicant society are the allottees of the flats being constructed by the petitioner company and have paid substantial amount to the petitioner company but till date the project has not been completed for which they are suffering irreparable loss. He also submits that in case the applicant is not heard, their right will seriously be affected.

This fact has not been controverted by the learned counsel for the petitioner.

In the above conspectus, let the JayPee Kassia Welfare Society be impleaded as respondent no. 7 in the array of the parties of the present petition.

The application is allowed.

Order Date :- 8.2.2021

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Court No. - 39

Case :- WRIT - C No. - 6049 of 2020

Petitioner :- M/S Jai Prakash Associates Ltd

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rohan Gupta, Navin Sinha (Senior Adv.), Rahul Agarwal

Counsel for Respondent :- C.S.C., Arvind Srivastava, Gaurav Tripathi, Kartikeya Saran, Rahul Agarwal, Rohit Nandan Pandey, Syed Imran Ibrahim

Hon'ble Naheed Ara Moonis, J.

Hon'ble Dinesh Pathak, J.

Civil Misc. (Intervention) Application No. 8 of 2020

This is an application moved on behalf of 242 allottees to implead them as respondents in the array of the parties in the present petition.

Heard Sri Ashish Kumar Singh, learned counsel for the applicants and learned counsel for the petitioner.

Learned counsel for the applicants submits that the applicants may be arrayed as respondents in the present petition as they are the allottees of the flats being constructed by the petitioner company and have paid substantial amount to the petitioner company but till date the project has not been completed for which they are suffering irreparable loss. He also submits that in case the applicants are not heard, their rights will seriously be affected.

This fact has not been controverted by the learned counsel for the petitioner.

In the above conspectus, let the applicants be impleaded as respondents in the array of the parties of the present petition.

The application is allowed.

Order Date :- 8.2.2021

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