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HIGH COURT OF JUDICATURE OF ALLAHABAD

Court No. 1

Writ Petition No. 22820 of 2006

Group Captain Sukh Deo Singh Sidhu and another ... Petitioners

Versus

The State of UP and others ... Respondents

HON'BLE YATINDRA SINGH, J.

HON'BLE SHISHIR KUMAR, J.

1. New Okhla Industrial Development Authority (NOIDA) allotted land to the Air Force Naval Housing Board (the Board) in sector nos. 21 and 25 for constructing flats and garages to be allotted to the personnel belonging to Air Force and Navy. The Board constructed the flats as well as the garages. These were allotted to different persons including the petitioner. The petitioner let out his garage to respondent no. 4 for running a grocery shop. NOIDA issued a show cause notice to the petitioner on 16/20.9.2005 that no commercial activity be undertaken in the garage. The petitioner replied to this notice by letter dated 17.10.2005 mentioning therein that considering the need of the residents of the area, the petitioner had let out the garage for running a grocery shop but in case the NOIDA considers appropriate then the petitioner will close down this activity. According to the petitioner, no further intimation was given to him to close down the shop but the lease deed in favour of the petitioner has been cancelled on 18/20.4.2006, hence the present writ petition.

2. We have heard counsel for the petitioners, the standing counsel and Sri VP Mathur for the respondents. The petitioner is permitted to implead respondent no. 5.

3. The petitioner has filed an affidavit before this court stating therein that the shop has been closed down and the garage is being used for keeping the car. He has also attached photographs. The petitioner in his reply had also stated that in case NOIDA thinks it proper then grocery shop will be closed down. No intimation was given to the petitioner asking him to close the grocery shop. Now the petitioner has filed an affidavit before this Court, it would be appropriate to set aside the order dated 18/20.4.2006 and send the case back to respondent no. 3 for taking decision afresh in this case.

4. The petitioner may file similar affidavit before respondent no. 3 and in case the petitioner undertakes to use his garage only for keeping his car then respondent no. 3 may drop the proceeding for cancellation of the lease.

5. There are different authorities such as Housing Boards, Local Bodies, Industrial Authorities and Estate department who are letting out the land for construction of flats and garages and are also allotting constructed houses with garages. The garages are meant to be used for keeping vehicles or in case there is no vehicle then as a store room. The garages are not meant to be used for any other purpose i.e. as a living quarter or as a chamber (for doctors, or lawyers, or real estate agents) or for the any commercial activity (namely as a shop or beauty parlour etc.). In case the garages are so used then it is against the purpose for which they were constructed or allotted.

6. Many places, garages are not being utilised for keeping vehicles or as a storeroom. They are being utilised for the purpose other than for which they were constructed or allotted. The vehicles are being kept at the public place thus hindering the traffic. It is necessary that such a

situation should be avoided.

7. The Chief Secretary-respondent no. 5 is over all incharge of all departments. He may issue appropriate directions to all departments within three months from the date of receipt of copy of this order. The directions will direct the departments to issue the following directions to the Housing Boards, Local Bodies, Development authorities, Industrial Authorities, and Estate department:

(i) To take suitable action so that the garages are utilised for keeping vehicles or as a storeroom and they should not be utilised for any other purpose. The direction may also indicate that in case the person to whom garage has been allotted does not stop the other activities, then allotment shall be cancelled.

(ii) No plan for construction of a building for residential purpose or non residential purpose (including commercial, shopping etc.) be approved unless they adequately provide for the following things:

(a) Sufficient parking place for the vehicles.

(b) Reserving place to be utilised by disable persons.

(c) Sufficient provision to access the building by disable persons.

(d) Provision for water harvesting/management.

(e) Sufficient provision for taking care of rubbish.

8. The NOIDA is party in this case. It will abide by directions (i) and (ii) mentioned in the preceding paragraph. The NOIDA will issue notice to every lease holder who has been allotted garage and is not using it as indicated above. In case the lease holder does not undertake to use the garage for keeping vehicles, then such allotment shall be cancelled.

9. With these observations the writ petition is disposed of. A copy of this order be given to the Chief Standing Counsel within a week communication to the Chief Secretary for compliance.

Dated:1.5.2006

Please Note- The above Judgment has been downloaded from the Internet.