CHAPTER XIV : MINISTRY OF URBAN DEVELOPMENT

Delhi Development Authority

14.1 Inaction on the part of DDA

The Delhi Development Authority was deprived of prime land worth Rs. 92.06 lakh due to failure to take timely action to cancel the allotment of a plot despite persistent breaches of terms of allotment. Composition fees of Rs. 43.45 lakh also remained unrecovered.

Rule 6(v) of Chapter-II of the Delhi Development Authority (Disposal of Nazul Land) Rules 1981, provides that the Authority shall lease nazul land at pre-determined rates to industrialists who are required to shift their industries from non-conforming areas to conforming areas under the Master Plan. The terms of such lease agreement stipulate that the lessee shall not sell or transfer the land or any part of it without the consent of the Authority. Further, the lessee is required to construct his building within two years of receipt of possession of the land. In the event of death of the lessee, the person on whom the title devolves shall within three months give notice of such devolution to the Authority. In the event of breach of the terms of the agreement, the Authority retains the right to resume possession of the land and the building thereon without payment of any compensation to the lessee.

The Delhi Development Authority (DDA) allotted industrial plot No. C-183 at Rewari Line Industry Area, Phase-II (Mayapuri Industrial Area) measuring 605 sq. yards to Rex Auto Industries in September 1966. However, the lessee did not construct the building within the stipulated time limit. Extension of time was granted upto June 1978. Despite this extension, no building was constructed. The allottee expired in May 1988 but in breach of the lease terms, no notice was given of the devolution of the title of the plot. DDA took no action on the breaches of the terms of the lease except to issue routine show cause notices in December 1992 and in June 1996.

In August 1998, 10 years after the date of death of the allottee, the mother (the party) of the deceased proprietor of the firm requested DDA to grant extension of time to complete the building and to transfer the plot in her name. The plot was transferred in her name in May 1999 and extension of time for construction was granted in January 2001 upto June 2001, subject to payment of a composition fee of Rs. 1.10 crore which included ground rent due upto 14 July 2001 and interest on ground rent upto 14 March 2001.

Thereafter, on the representation of the party, the Vice Chairman DDA waived the composition fee for the period 1968 to 1975 and from 31 August 1998 to 18 June 2001. A revised demand letter for Rs. 43.45 lakh was issued in June 2001. But the party again represented for waiver of the entire amount which was not agreed to. The buyer resold the plot in September 2002. The occupier of the property carried out unauthorised constructions in January 2003 and covered 100 *per cent* of the plot. No clearance was obtained from the authority for these transactions as required under the lease agreement.

Subsequently, a complaint was received in DDA (January 2003) regarding the unauthorised constructions and the sale of plot by the party. DDA finally cancelled the allotment of the plot in May 2003. The occupants filed a case before the Additional District Judge, Delhi, who passed orders for initiation of eviction proceeding under the Public Premises Act, 1971 for violation of the terms of the lease deed. The eviction proceedings were in progress (December 2005). Meanwhile, DDA requested the MCD Commissioner in May/June 2003 to initiate action against the unauthorised construction.

Evidently DDA had failed at every stage to enforce the terms of the lease and to protect its interest by ascertaining the status of the land, particularly during the period of construction, so as to ensure timely action to repossess the plot. Infact, no action was taken till receipt of complaint in January 2003. DDA could have resumed possession of the land when the party failed to pay the revised composition fee in June 2001 itself. Persistent inaction on the part of DDA resulted in its being deprived of prime land worth Rs. 92.06 lakh valued at the current market rate and non recovery of the composition fees including ground rent and interest thereon of Rs. 43.45 lakh.

The matter was referred to the Ministry in August 2005. Ministry stated (November 2005) that eviction proceedings were in progress and added that after obtaining eviction orders and physical possession of the property, DDA may not suffer any financial loss, if the property was disposed of at the prevailing market rate. The reply is not tenable as there was no justification for the inaction on the part of DDA in enforcing the terms of the lease agreement and resuming possession of the land as well as recovering the composition fee. Possible further sale of the property at market rate is not pertinent point as the same position would have prevailed had the Authority been able to repossess the property earlier by taking timely action to enforce the terms of the allotment.

14.2 Loss of Interest

Loss of interest amounting to Rs. 72.90 lakh due to investment at lower rate of interest.

Section 23(3) of the Delhi Development Act,1957 provides that the DDA may keep in its current bank account such sum of money out of its fund as may be prescribed by rules and any money in excess of the said sum shall be invested in such manner as may be approved by the Central Government. The DDA constituted in January 1998 an investment committee consisting of the Chief Accounts Officer as Chairman, Director (LC) and Financial Advisor (H) as members and Senior Accounts Officer (Accounts) as Secretary to determine the bank in which the excess amounts are to be invested.

Audit noted that the DDA invested of Rs.205 crore (Rs. 170 crore at the rate of 6.10 *per cent* on 22 March 2004 and Rs.35 crore at the rate of 6.05 *per cent* on 24 March 2004) in Syndicate Bank for three years and one day. However, the prevailing rate of interest during the same period and for the same term was 6.21 *per cent* as availed of by other autonomous bodies with the Syndicate Bank. Failure of DDA to avail of the highest rate of interest resulted in loss of interest of Rs. 72.90 lakh.

The Ministry stated in September 2005 that sealed quotations are received from the nationalised banks on their panel on the date of investment and the highest rates received were taken into consideration and investment made accordingly.

The reply was not tenable as a higher rate of interest was available at the time of investment and it should have been possible for the DDA to independently ascertain the interest rate prevailing on the day of investment so as to avail of the most advantageous rate rather than rely solely on quotations received.

DDA also stated (September 2005) that their investment procedure had been revised. After receipt of sealed tenders, the first three banks quoting the highest rates were now given a further opportunity to enhance their rates. In case rates were further enhanced by these banks then investment was made with them at their negotiated rate or otherwise at the highest quoted rate.

14.3 Delhi Development Authority regularised encroachment and unauthorised construction

Delhi Development Authority regularised encroachment and unauthorised construction of school buildings by a private school on DDA land. It however took no action to recover damage charges of which had been calculated as Rs. 35.07 lakh despite lapse of over ten years.

In accordance with Rule 20 read with Rule 5 of the DDA (Disposal of Developed Nazul Land) Rules, 1981, DDA allots nazul land to educational societies recommended by the Directorate of Education of the Government of NCT of Delhi for setting up and running of schools. The land is allotted subject to fulfillment of certain specified terms and conditions and at rates determined by the DDA in accordance with the extant rules. Failure to adhere to the terms of payment of the premium, ground rent, etc. fixed for allotment of the land renders the allotment liable for cancellation as well as for action to recover pending dues. Sections 40/40-A of the DDA Act provides for recovery of the dues of the Authority as arrears of land revenue.

In April 1988, the DDA allotted a plot of land measuring 3.228 acres at Saraswati Garden to the DAV College Management Committee at Rs.8 lakh per acre for construction of a school. On payment of the premium and ground rent of Rs.16.40 lakh in May 1988, the plot was handed over to the Committee in July 1988. Subsequently, the residents of the locality objected to the construction of the school at the site. In February 1989, the Management Committee requested DDA for allotment of an alternative site. Without waiting for a formal allotment, the DAV college management committee entered into an agreement with the Reserve Bank Staff Cooperative Housing Society in August 1989 for construction of the school at a plot of land in Paschim Vihar. In December 1989, DDA formally offered the same plot measuring 2.492 acre at Paschim Vihar to the committee at a rate of Rs.23.75 lakh per acre. Instead of acting on the offer, the college management committee took up the construction of the school which was completed in three phases between 1990 and 1995.

Though this land belonged to DDA and not to the RBI Staff Co-operative Housing Society, DDA took no notice till 5 August 1993 when it issued a show cause notice to the Committee treating the school as an encroachment and an unauthorised construction. The Committee failed to respond to the show cause notice and DDA issued sealing orders of the unauthorised construction on 12 August 1993. The Committee thereafter submitted its reply on the same day viz. 12 August 1993 and subsequently DDA offered on 25 August 1993 to regularise the unauthorised encroachment subject to the condition that the allotment shall be made at the current rates and damages

will be paid by the Committee for the period of unauthorised occupation of the site. On acceptance of these terms, the land was allotted to the Committee in December 1993 at the rate of Rs. 23.75 lakh per acre. The Committee deposited the premium in June 1996. In January 1999, DDA issued a notice requiring the Committee to pay the damage charges which had amounted to Rs. 35.07 lakh. Despite an assurance given in July 1998 to pay the damage charges, the committee failed to pay the damage charge. However, no further action was taken and the damages remained unpaid as of June 2005 viz. even after expiry of seven years from the date of issue of notice.

Thus, lackadaisical approach of the DDA in protecting its interests had enabled the Committee to obtain unauthorised possession of DDA land and thereafter even construct a school building over a period of three years without eliciting any reaction. Though the Committee had taken possession of the site from the Reserve Bank Staff Co-operative Housing Society in 1989-90 and started construction, DDA failed to take cognizance of the encroachment and unauthorized construction till August 1993 when it was essentially faced with a fait accompli. Thereafter, though damages were imposed and despite an undertaking by the Committee to pay the damage charges, DDA took no meaningful action to recover the damage charges except to merely issue a routine notice in January 1999. No steps were taken to either resume the land or to initiate proceedings to recover its dues as arrears of land revenue under the provisions of the DDA Act. Consequently, while the unauthorized encroachment was regularized, the damage charges of Rs.35.07 lakh remained unrecovered despite lapse of over eleven years from the date of regularization/allotment of the land.

DDA stated in July 2005 that though the society was at fault for unauthorised possession of the alternative site without making the payment asked for, they have already been penalised to some extent by being forced to pay the prevailing zonal rate for the present allotment. Since it was not possible to give the original plot, it was decided to revise damage charges. The society had represented against the revised charges fixed which is yet to be finalised.

The reply of DDA was not tenable because allowing a society to occupy and construct on land under their irregular possession only encourages such presumptive action on the part of societies to the detriment to the interests of the DDA. Further, revised damage charges has not yet been finalised despite lapse of six years since January 1999.

The matter was referred to the Ministry in August 2004 and a reminder issued in July 2005; their reply was awaited as of December 2005.