

ITEM NO.1 Court 3 (Video Conferencing) SECTION IV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

IA 102644/2019, in Civil Appeal No(s). 5072/2016

UDDAR GAGAN PROPERTIES LTD

Appellant(s)

VERSUS

SANT SINGH & ORS.

Respondent(s)

(IA No. 102644/2019 - CLARIFICATION/DIRECTION)

WITH

C.A. No. 5079-5085/2016 (IV)

C.A. No. 5086/2016 (IV)

C.A. No. 5073-5077/2016 (IV)

C.A. No. 5087-5099/2016 (IV)

C.A. No. 5100/2016 (IV)

Date : 07-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Parties:

Mr. Jaideep Gupta, Sr. Adv.(AC)
Mr. Kunal Chatterjee, AOR

Mr. Anil Grover ,Sr. AAG HARYANA
Mr. Ajay Bansal, AAG Haryana
Mr. Rahul Khurana, Advocate
Mr. Satish Kumar, Advocate
Mr. Amit Kumar, Adv
Mr. Sanjay Kumar Visen, AOR

Ms. Kanika Agnihotri, Adv.(for Builder)
Mr. Kanhaiya Singhal, AOR
Mr.Chetan Bhardwaj, Adv.
Mr.Prasanna, Adv.
Ms. Heena Tangri, Adv.
Mr.Rishabh Jain, Adv.
Mr.Ajay Kumar, Adv.
Mr.Udit Bakshi, Adv.

Mr.M.L Sharma, Adv.
 Ms. Meenakshi Sharma , Adv.
 Mr. Rajat Sharma , Adv.
 Mr. Subhasish Bhowmick, AOR

Mr.M.L Sharma, Adv.
 Ms. Meenakshi Sharma , Adv.
 Mr. Rajat Sharma , Adv.
 Mr. S. L. Aneja, AOR

Ms. Binu Tamta, AOR. (UOI)

Mr. Sunil Roy, AOR

Mr. D. N. Goburdhan, AOR

Mr. Gaurav Sharma, AOR

Ms. Anubha Agrawal, AOR

Mr. Kamal Mohan Gupta, AOR

Mr. Vijay K. Jain, AOR

Ms. Anubha Agrawal, AOR

M/S. Karanjawala & Co., AOR

Mr. Siddharth Mittal, AOR

Mr. Ajay Pal, AOR

Mr. Rohit Kumar Singh, AOR

**UPON hearing the counsel the Court made the following
 O R D E R**

Civil Appeal No.5072/2016 and other connected matters were dealt with by this Court in its judgment dated 13.05.2016 in *Uddar Gagan Properties Ltd. v. Sant Singh*, reported in [2016 (11)SCC 378]. The directions issued by this Court in Paragraph 33 were as under:

“33. Keeping the above in mind, we are of the view that ends of justice will be served by moulding the relief as follows:

33.1. Notifications dated 11-4-2002, 8-4-2003 and awards dated 6-4-2005 are upheld.

The land covered thereby vests in HUDA free from all encumbrances. HUDA may forthwith take possession thereof.

33.2. All release orders in favour of the builder in respect of land covered by the award in exercise of powers under Section 48 are quashed.

33.3. Consequently, all licences granted in respect of the land covered by acquisition will stand transferred to HUDA.

33.4. Sale deeds/other agreements in favour of the builder in respect of the said land are quashed. The builder will not be entitled to recover the consideration paid to the owners but will be entitled to reimbursement as indicated hereinafter. Creation of any third-party rights by the builder also stands quashed.

33.5. The sale consideration paid by the builder to the landowners will be treated as compensation under the award. The landowners will not be required to refund any amount. The landowners who have not received compensation will be at liberty to receive the same. The landowners will also be at liberty to prefer reference under Section 18 of the 1894 Act within a period of three months, if such reference has not been earlier preferred.

33.6. The builder will be entitled to refund/reimbursement of any payments made to the State, to the landowners or the amount spent on development of the land, from HUDA on being satisfied about the extent of actual expenditure not exceeding HUDA norms on the subject. Claim of the builder will be taken up after settling claim of third parties from whom the builder has collected money. No interest will be payable on the said amount.

33.7. The third parties from whom money has been collected by the builder will be entitled to either the refund of the amount, out of and to the extent of the amount payable to the builder under the above direction, available with the State, on their claims being verified or will be allotted the plots at the price paid or price prevalent, whatever is higher. No interest will be payable on the said amount.

33.8. The State shall give benefit of "Rehabilitation and Resettlement of Land Acquisition Oustees" policy of the State/HUDA to the landowners. Area so required shall be reserved out of the acquired land itself.

33.9. The State Government may enquire into the legality and bona fides of the action of the persons responsible for illegally entertaining the applications of the builder and releasing the land to it, when it had no title to the land on the date of the notification under Section 4 of the 1894 Act and proceed against them in accordance with law.

33.10. This judgment be complied with within one year.

33.11. Quarterly progress report of the action taken in pursuance of this judgment be filed by the State in this Court and final report of compliance may be filed within one month after expiry of one year from today for such further direction as may become necessary."

Mr. Jaideep Gupta, learned Senior Advocate who has been appointed as Amicus Curiae, submits that except for matters pertaining to two issues all other directions passed by this Court stand complied with. On these issues, we have also heard Mr. Anil Grover, learned AAG for the State, Ms. Binu Tamta, learned advocate for Union of India and Ms. Kanika Agnihotri, learned advocate for the Builder.

According to Mr. Gupta, the first issue pertains to directions issued by this Court in Paragraph 33.6 and 33.07. Mr. Gupta has invited our attention to IA No. 102644/2019 filed by the Builder, according to which certain amounts are still to be made over to the Builder. On the other-hand in its response filed to said application, the State has asserted that nothing remains to be paid to the builder.

In the face of these contentions, learned Amicus Curiae has suggested that either the parties be relegated to any action where the inter se disputes can be sorted out or the learned Amicus Curiae be asked to consider the rival submissions and make an appropriate report for consideration by this Court.

Ms. Agnihotri, learned advocate for the Builder points out that though the last sentences in direction Nos.33.06 and 33.07 stipulated that no interest would be payable, all directions had to be worked out within a period of one year as stated by this Court in direction No.33.10. In her submission, since the matter has lingered on for last five years, in case any amounts are due to the Builder, interest at reasonable rate be awarded to the Builder.

At this stage, we are not passing any directions with regard to the request made by Ms. Agnihotri. In our view, ends of justice will be met if the second suggestion made by learned Amicus Curiae is accepted. We, therefore, request him to look into the matter and submit an appropriate report to the Court at the earliest. In order to facilitate the exercise, the concerned parties may place their submissions before the learned Amicus Curiae.

The second issue high-lighted by learned Amicus Curiae pertains to direction No.33.9 issued by this Court. According to him, the drift of the decision of this Court shows that the State power was deliberately misused for private gain, and therefore, direction No.33.09 required the State to "inquire into the legality and bona fides of the actions of the persons responsible for illegally entertaining the application of the builder and allotting the land to it".

Learned Amicus Curiae further submits that initially the matter was referred to a Senior Civil Servant and after his report which suggested "Systemic failure" and that no action be taken against any official, the matter was made over to a retired Judge of the High Court. The matter was then considered under five Heads as stated in the report and with respect to the 5th Head, the matter was again dealt with by another Civil Servant. Learned Amicus Curiae submits that this report also concluded that there was "Systemic failure" rather than considering the individual actions of those who were responsible.

Learned Amicus Curiae has also invited our attention to subsequent judgment of this Court in Rameshwar & Others Vs. State

of Haryana & Others [2019 (6) SCC 215] in which similar misuse of State power for private gain was the matter in issue. In that case, the inquiry is presently being conducted by the CBI.

Learned Amicus Curiae, therefore, submits that on similar lines, inquiry in the present matter may also be handed over the CBI to secure the ends of justice.

Having considered the submissions of the learned Amicus Curiae and the decisions of this Court in Uddar Gagan Properties Ltd. (particularly paragraphs 23 and 29) and in Rameshwar & Others, in our view, the matter must be made over to the CBI to consider all the issues pertaining to direction No.33.09 passed by this Court. Ordered accordingly.

A copy of this order shall be transmitted by the Registry of this Court and the learned Counsel for Union of India to the appropriate authorities for compliance and necessary action.

We must clarify that we shall be taken to have pronounced upon the merits of the matter which shall be looked into by the CBI independently. Further, the matter shall be looked into by the CBI without in any way being influenced by the reports and conclusions as stated hereinabove.

Thus, out of two issues highlighted by the learned Amicus Curiae, second issue stands dealt with while with respect to the first issue, let the matter be listed soon after the report is submitted by the learned Amicus Curiae.

(INDU MARWAH)
COURT MASTER (SH)

(VIRENDER SINGH)
BRANCH OFFICER