

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).20843 OF 2017
(Arising out of SLP (C) No(s).16885 of 2017)

U.P AWAS EVAM VIKAS PARISHAD & ORS.

APPELLANT(S)

VERSUS

PATEL SEWA SANSTHAN & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

The appellants are before us inasmuch as pursuant to an advertisement way back in 2004, an allotment letter of 25th March, 2004 was issued, allotting a certain plot in favour of the respondent No.1. The money that was required to be deposited was not so deposited. Ultimately, cancellation took place and a revival was sought for by the respondents. The respondents went to the High Court in a writ petition in 2009 in which, by an order dated 9th December, 2009, it was stated that the appellants' allotment of commercial plot was cancelled but that the appellants are willing to make the entire deposit, and that the order of allotment be revived. The High Court, while dismissing the petition, only gave the respondent No.1 the liberty to make a representation to the Housing Commissioner. In the representation made to the Housing Commissioner, the respondent No.1 again asked that the

penalty of 10 per cent be levied on him, and that he may be allowed to pay the amount in installments, which was not in accordance with the statement made before the Division bench on 9th March, 2009. In any case, ultimately the Housing Commissioner, by an order dated 1st April, 2010, dismissed the representation, against which another writ petition of 2010 was filed by the respondents. This writ petition was disposed of stating that the Housing Commissioner's order was quashed and that the Housing Commissioner be directed to allot an alternate plot of a similar nature in the same scheme to the appellant - Society within a period of six weeks.

In an appeal against this order, learned senior counsel for the appellants has argued that there is no alternate plot left in the same scheme, but that an alternate plot in a similar scheme could possibly be given to respondent No.1 but in an auction which would fetch today's market rate. Mr. K.V. Vishwanathan, learned senior counsel, has countered this argument by stating that he is willing to pay the 10 per cent penalty together with interest on the remaining amount that has to be paid.

Having gone through the papers ourselves, and having regard to the arguments made before us, we are of the view that in the interest of justice, Mr. K.V. Vishwanathan's client should be allotted another plot in a similar scheme, provided the market value for the said plot is determined by the authority by sale of similar plots in

auction that have taken place in the recent past.

With these observations, the appeal is allowed.

Pending applications, if any, shall also stand disposed of.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[NAVIN SINHA]

NEW DELHI
4th December, 2017

ITEM NO.56

COURT NO.12

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 16885/2017

(Arising out of impugned final judgment and order dated 08-02-2017 in Misc. Bench Writ Petition No. 11402/2010 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

U.P AWAS EVAM VIKAS PARISHAD & ORS.

Petitioner(s)

VERSUS

PATEL SEWA SANSTHAN & ORS.

Respondent(s)

(IA No.99354/2017-PERMISSION TO PLACE ADDITIONAL FACTS AND GROUNDS and IA No.99355/2017-EXEMPTION FROM FILING O.T.)

Date : 04-12-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Petitioner(s) Mr. P.N. Mishra, Sr. Adv.
Mr. Vishwajit Singh, AOR
Mr. Pankaj Singh, Adv.
Mr. Gaurav Singh, Adv.

For Respondent(s) Mr. Pradeep Kant, Sr. Adv.
Mr. Divyanshu Sahay, Adv.
Mr. Rohit Kumar Singh, AOR

Mr. K. Vishwanathan, Sr. Adv.
Mr. Gaurav Mehrotra, Adv.
Mr. Talha Abdul Rahman, AOR
Mr. Abhishek Gupta, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications, if any, shall also stand disposed of.

(SWETA DHYANI)
SENIOR PERSONAL ASSISTANT

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)

