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Maximal Infrastructure (Pvt.) Ltd
R-13, 2nd Floor, Greater Kailash Part -1
NEW DELHI - 110048
(INDIA)

Annexure - A-1

BY EMAIL/SPEED POST

21.12.2024

To,
Ferrous Infrastructure Pvt. Ltd.
Regd. Address :- B-22, Lower Groud Floor,
Jangpura Extension,
New Delhi -110014

Also At :-

L-7, Lower Ground Floor,
Lajpat Nagar-3,
New Delhi -110024

In terms of the Judgment / order dated 05.05.2015 passed by the Hon'ble Apex Court whereby Seth group was held responsible for its share;

Thus, Copy to :-

1. Surender Seth S/o (L) Shri Kishan Chand Seth
   R/o Seth Farms, Mehrauli Gurgaon Road, New Delhi -110030
2. Ashish Seth S/o Shri Surender Seth
   R/o Seth Farms, Mehrauli Gurgaon Road, New Delhi -110030
3. Ferrous Forging Limited
   Office at Seth Farms, Mehrauli Gurgaon Road, New Delhi -110030
4. Ferrous Alloy Forging Private Limited
   Office at Seth Farms, Mehrauli Gurgaon Road, New Delhi -110030
5. Ferrous Township Private Limited (Formerly known as Minu's Collection Pvt. Ltd.) Office at Seth Farms, Mehrauli Gurgaon Road, New Delhi -110030

Also Copy to :

Mr. Ashish Singh (RP)

Unit No. 2514, Fifth Floor, Tower A,
The Corenthum ,Sector 62, Noida,
U.P.-201301.

Hari Mohan Gupta

Maximal Infrastructure (Pvt.) Ltd
R-13, 2nd Floor, Greater Kailash Part -1
NEW DELHI - 110048
(INDIA)

RE: RENEWAL OF LC -810 / LICENCE NO. 34,35 & 36 OF 2007 GRANTED IN THE NAME OF TRIVENI FERROUS INFRASTRUCTURE PRIVATE LIMITED (TFIPL) (NOW KNOWN AS MAXIMAL INFRASTRUCTURE PVT. LTD.) AND OTHERS.

Sir,

This is to state that the licence No.34-36 of 2007 was renewed upto **22.01.2025** vide Memo No.LC-810-Vol-XJE(SK)-2021/4981dated 01.03.2021 issued by the DTCP, Chandigarh. The said license is due to expire on 22.01.2025 and thus accordingly, required to be renewed, in accordance with law. The undersigned being the licensee is required to file renewal application with DTCP, Haryana, before the licence gets expiry.

There are certain conditions / requirements to be fulfilled / complied with DTCP for getting the licence renewed, the same are as follows:-

1. As per Development Agreement dated 15.06.2007, you are called upon to pay the renewal licence fees equivalent to your share i.e., 10.270 Acre (Land area)/ 14.80 Acres (Developed FAR rights), which is approx. **Rs.30.00 lakh** subject to final calculation by DTCP which may result to increase / decrease of the fees. Accordingly, you are requested to provide the DD of the equivalent amount to your share, in favour of "The Director, Town & Country Planning, Haryana" payable at Chandigarh.
2. As per Development Agreement dated 15.06.2007, you are called upon to Pay the revalidation fees for revalidating the sanctioned building plans equivalent to your share which is approx. **Rs.32.00 lakh**, subject to final calculation by DTCP which may result to increase / decrease of the fees for valid upto five years. Accordingly, you are requested to provide the DD of the equivalent amount to your share, in favour of "The Director, Town & Country Planning, Haryana", payable at Chandigarh.
3. You are further requested to submit all the requisite documents in respect of Rule 24,26(2), 27 & 28 of Haryana development and Regulation of Urban Areas Rules, 1976 equivalent to your share with the undersigned company.
4. Submit renewed Bank Guarantees equivalent to your share for next five years.

Harimohan Gupta

Maximal Infrastructure (Pvt.) Ltd
R-13, 2nd Floor, Greater Kailash Part -1
NEW DELHI - 110048
(INDIA)

5. Consultation charges Rs.1.00 lakh per acre i.e., totaling to **Rs.14.80 Lakh**. DD to be made in favour of "Anu Sachdeva", consultant / professional responsible for compliance of the renewal application.
6. Get your agreement registered as per RERA / DTCP guidelines. Undersigned is ready to get the agreement registered, so contact the undersigned and fixed the timelines for the same.
7. Composition charges against non-allotment of EWS flats as per policy dated 16.08.2013 equivalent to your share which is approx. **Rs.16.00 lakh** subject to final calculation by DTCP which may result to increase / decrease of the fees. Accordingly, you are requested to provide the DD of the equivalent amount to your share, in favour of "The Director, Town & Country Planning, Haryana" payable at Chandigarh.
8. Submit an undertaking to pay any other fees / charges / penalty / composition fees demanded by DTCP equivalent to your share after the final calculation.
9. Submit an explanatory note indicating the details of development works which have been completed or are in progress or are yet to be undertaken.
10. Submit Certificate from Chartered Accountant regarding non receipt of stamp duty / registration charges.
11. Submit an affidavit in respect to construction works carried at site in terms of the directions given by Hon'ble Supreme Court of India in Para 21 in the Judgment 'Rajendra Kumar Barjatya and Another Vs. U.P. Avas Evam Vikas Parishad & Ors. (Civil Appeal No. 14604 of 2024)', copy enclosed.

Kindly provide the above-mentioned details in order to file the renewal application of license no.34-36 of 2007 with DTCP within 7 days i.e., by 28.12.2024 so that the renewal application may be finalized and applied. Please note any delay in submission of above documents / payments / renewed BG may cause delay in renewal of licence and you shall be held responsible for the same.

We would appreciate your early response and compliance.

For Maximal Infrastructure Pvt Ltd

Authorised / Director

2024 INSC 990

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 14604 OF 2024
(Arising out of SLP (C) No.36440 of 2014)

RAJENDRA KUMAR BARJATYA AND ANOTHER ... APPELLANT(S)

VERSUS

U.P. AVAS EVAM VIKAS PARISHAD & ORS. ... RESPONDENT(S)

CIVIL APPEAL NO. 14605 OF 2024
(Arising out of SLP (C) No.1184 of 2015)

RAJEEV GUPTA AND OTHERS ... APPELLANT(S)

VERSUS

U.P. AVAS EVAM VIKAS PARISHAD & ORS. ... RESPONDENT(S)

J U D G M E N T

R.MAHADEVAN, J.

1. Leave granted.

2. Challenging the final judgment and order dated 05.12.2014 passed by the High Court of Judicature at Allahabad[1] in Writ-C.No.46342 of 2013, the appellants herein, who are third parties to the proceedings, have preferred the

[1] Hereinafter shortly referred to as "the High Court"

present appeals.

3. The aforesaid writ petition was filed by the Respondent No.1 seeking for issuance of a Writ of Mandamus to direct the Respondent Nos.2 to 4 to stop the illegal / unauthorized commercial construction on residential plot no.661/6, Shastri Nagar Yojna No.7, Meerut, and to provide police force to execute the order of demolition dated 31.05.2011 passed by the competent authority viz., Executive Engineer, Construction Division-8, U.P. Avas Evam Vikas Parishad, Sector 9, Shastri Nagar, Meerut.

4. By the judgment and order impugned herein, the High Court allowed the above writ petition with the following directions and observations:

> *(a) The District Magistrate, Meerut and the Senior Superintendent of Police Meerut shall remain present on the date and time to be notified by the petitioner-Avas Evam Vikas Parishad for the purposes of demolition of unauthorized constructions. Such demolitions must be effected on or before 31st December, 2014.*
> *(b) Criminal proceedings should be launched against respondent nos.4 and 5 as well as against the officers, who were In-charge of the office of Awas Vikas Parishad at the relevant time including the Chief Engineer and the Executive Engineer when these constructions had come up.*
> *(c) The Chief Secretary, U.P. Lucknow shall ensure that the departmental proceedings are also initiated against the officers of Awas Evam Vikas Parishad responsible for the situation, which has been created. The Housing Commissioner shall also ensure that all like nature of unauthorized constructions are similarly dealt with without any discrimination and without any favourtism. For the purpose, he shall ensure that the highest officer posted in the office of Awas Evam Vikas Parishad at Meerut is made personally responsible for giving notice to the owner/persons in possession of the unauthorized occupations. The proceedings must be decided and appropriate action be taken within two months from the date of receipt of a certified copy of this order. There should be no complaint to this Court that any person has been treated favourably in the matter of demolition of the unauthorized*

constructions.

(d) We also direct the Chief Secretary, U.P. Lucknow to ensure that the district authorities at Meerut are responded to the request of Awas Evam Vikas Parishad in the matter of demolition with all promptness and with full force.
(e) We make it clear that all unauthorized constructions have to be dealt with in same manner."

5. At the outset, it is imperative to note the relevant background facts leading to the present litigation. The Respondent No.5 by name, Veer Singh was originally allotted a plot bearing No.661/6, situated in Bhoomi Vikas, Grisathan Yojna No.7, Sector No.6, Phase-1, Shastri Nagar, Meerut, U.P.[2] by the Respondent No.1 on 30.08.1986. Possession was also handed over to him on 15.06.1989. In respect of the subject property, the Respondent No.1 executed a freehold deed dated 06.10.2004 in favour of the Respondent No.5 with specific condition that the property shall be used only for residential purposes. Contrary to the same, the Respondent No.5 with the assistance of his power of attorney agent by name, Vinod Arora i.e., Respondent No.6, started raising illegal commercial construction on the subject property without obtaining any sanction / approval from the Respondent No.1. Though show cause notices were issued to him, he neither responded to the same nor took any steps against the illegal construction, which compelled the competent authority to pass the order of demolition of the illegal / unauthorized construction on the subject property on 31.05.2011. However, the Respondent No.1 was unable to execute the said

[2] Hereinafter shortly referred to as the "subject property"

order, due to lack of co-operation from the local as well as police authorities. Therefore, they preferred the Writ Petition bearing No.46342 of 2013, which was allowed by the High Court, by order dated 05.12.2014, which is assailed in these appeals by the appellants herein, who are the owners of the commercial shops, which are stated to have been illegally / unauthorizedly constructed on the subject property by the Respondent Nos.5 and 6.

6. The common submissions made by the learned counsel appearing for the appellants in these appeals are that admittedly, shops in the subject property have been in existence for the past 24 years; and the Respondent No.1 had converted the subject property from leasehold to freehold by the registered document dated 06.10.2004 on "As is where is basis" and as per clause 6(a) of the said deed, the Respondent No.1 had accepted the construction made on the subject property and they were fully aware of the same from its inception. That apart, through registered sale deeds, all the appellants herein had purchased the shops constructed on the subject property for valuable consideration and have been occupying the premises since then and earning their livelihood. However, the Respondent No.1 without issuing notice under section 82 of the U.P. Avas Evam Vikas Parishad Adhiniyam, 1965[3] to the appellants, erroneously took steps to demolish the entire construction in the subject property by treating the same as illegal and unauthorized one and also obtained the demolition order

[3] For short, “the Act”

from the High Court, which is arbitrary, illegal and in violation of the principles of natural justice. In support of the same, the learned counsel placed reliance on the decision of this Court in *Municipal Corporation, Ludhiana v. Inderjeet Singh*[4], wherein, demolition of commercial property was carried out by Municipal Corporation, without serving proper notice on the respondent i.e., notice was served on a dead person and in such circumstances, it was observed by this Court that '*had a proper show cause notice been served upon the first respondent, he could have shown that the alleged violation of the provisions of the Act is of negligible character, which did not warrant an order of demolition.'*

6.1. Elaborating further, the learned counsel for the appellants submitted that without issuing notice to the appellants and occupants of the shops, the High Court has ordered demolition of the entire construction in the subject property. According to the learned counsel, the High Court, before ordering demolition, should have directed the authorities to explore the possibility of regularizing the alleged illegal construction in the subject property. It is also submitted by the learned counsel that there were initially about 15 to 20 shops and now, there are more than 600 commercial establishments run in the area earmarked as 'Central Market', but the Respondent No.1 failed in its statutory duty to keep pace with the booming development and therefore, this situation has arisen. It is further

[4] (2008) 13 SCC 506

alleged that the Respondent No.1 adopted a pick and choose policy, whereby the construction made on the subject property was cherry picked for demolition, whereas in the entire vicinity of the Central market, buildings like this have blossomed and mushroomed. The learned counsel ultimately, submitted that the right of the Respondent No.1 to seek demolition is barred by delay and laches and they were negligent and acted hand in glove with the people responsible for such sorry state of affairs and that, in terms of Sections 92 to 94 r/w Sections 3, 7 and 8 of the Act, the State Government has full rights and control over the Respondent No.1, but they failed to exercise the same in proper perspective. Resultantly, due to no fault on the part of the appellants, their valuable rights are jeopardized and prejudiced at the hands of the Respondent No.1, who are acting in collusion and connivance with dishonest builders and land grabbers. Stating so, the learned counsel prayed to set aside the impugned order passed by the High court and allow these appeals.

7. On the other hand, the learned counsel appearing for the Respondent No.1 made detailed submissions reiterating the averments stated in the counter affidavit. According to him, U.P. Avas Evam Vikas Parishad viz., Respondent No.1 is the Housing Board of the State of Uttar Pradesh, an autonomous body created under the statute and governed by the U.P. Avas Evam Vikas Parishad

Adhiniyam, 1965[5]. With a view to eliminate housing problem and have a planned development in the District of Meerut, they floated a scheme called "Shastri Nagar Yojna No.7". In the said scheme, plots were carved out and categorized as residential and commercial as per usage. The residential plots could be used only for constructing the residential house and no commercial activity was permitted on the said plots. However, the Respondent No.5 started raising illegal commercial construction on the plot allotted to him, without obtaining any sanction from the competent authority. Though the Respondent No.1 sent show cause notices / communication to the Respondent No.5 to stop the illegal construction and get the same regularized, the Respondent No.5 did not respond to the same and he continued to construct the shops for commercial purposes. Therefore, the competent authority rightly passed the order of demolition of the unauthorized construction. But the said order was not enforced by the Respondent No.1, due to non-co-operation of the local as well as police authorities. Finally, the Respondent No.1 approached the High Court by filing the writ petition stating that the subject property was patently in violation of the statutory provisions applicable and it has to be demolished. The High Court after taking note of the facts and circumstances of the case, rightly passed the impugned order, which need not be interfered with by this Court.

7.1. In reply to the contentions raised on the side of the appellants, the learned counsel for the Respondent No.1 made the following submissions:

---

[5] For short, "the Act"

(i) The Respondent No.5 got the property converted from leasehold to freehold on the basis of the fabricated construction completion certificate.

(ii) Unauthorized construction was made only by the original allottee i.e., Respondent No.5 and not the appellants. Further, the Respondent No.1 did not know about the change of interest *qua* the subject property as it was never intimated to them. Moreover, the appellants were aware of the unauthorized construction and notices issued to stop the same, at the time of purchasing the shops itself. In such circumstances, there was no need for the appellants to be arrayed as parties before the High Court in adherence to the principles of natural justice.

(iii) The Respondent No.1 from the year 1990 onwards had served several notices on the Respondent No.5, directing him to stop the unauthorized construction, but he never paid heed to any of the notices and continued to raise the unauthorized construction. Therefore, it is incorrect to state that the Respondent No.1 lost its right to demolish the said unauthorized construction on the ground of delay and laches.

(iv) The appellants' right over the shops was created in pursuance of the change in usage of plot and unauthorized construction raised by the original allottee, which was never approved by the Respondent No.1 and therefore, in no way, their rights are being infringed by the Respondent No.1. Further, it cannot be said that the action of the Respondent No.1 is barred by the principles of acquiescence and estoppel.

(v) The violations made by Respondent No.5 are deliberate, designed and motivated and it is not a case where the violations are marginal or insignificant or that it had crept in accidentally. It is only after complying with all the requirements of law that a violation would qualify for regularization. Therefore, there is no illegality or infirmity in the order of the High Court directing demolition of the unauthorized construction.

(vi) Nevertheless, the appellants always have a remedy to sue the Respondent No.5 for return of money and/or damages.

(vii) After carrying out all kinds of development activities in different sectors of the Scheme, the Respondent No.1 allotted commercial properties, wherever required, by way of auction sale and commercial activities are taking place on such properties and therefore, it is wrong to state that the Respondent No.1 failed in its duty to provide planned development in the area.

(viii) An illegal act, more so, when it was done deliberately, does not become legal only because certain length of time has passed.

Thus, it is submitted by the learned counsel that the appeals filed by the appellants may be dismissed by this Court.

8. The learned counsel for the Respondent Nos.2 to 4 made his submissions supporting the case of the Respondent No.1 in entirety. Placing reliance on the counter affidavit filed by the respondent authorities, it is submitted by the learned counsel that they are ready to provide all the protection and facilities to the Respondent No.1 to demolish the unauthorized construction as ordered by

the High Court. Therefore, the learned counsel prayed for appropriate orders in these appeals.

9. During the pendency of these appeals, the Respondent No.5 died, his legal heirs were brought on record as Respondent Nos.5.1 to 5.6, and the cause title was accordingly amended. Despite the service of notice, none appeared on behalf of the legal heirs of the deceased Respondent No.5. *Qua* the Respondent No.6, who also died during the pendency of these appeals, it was recorded by this Court on 24.03.2022[6] in SLP(C)No.36440 of 2014 that considering the status of the parties and the subject matter in issue, there was no requirement to substitute the legal representatives of the deceased Respondent No.6. In such circumstances, we have to examine the stand of the Respondent No.5 as was placed before the High Court. It was stated by the Respondent No.5 therein that after allotment, the Respondent No.5 executed a power of attorney in respect of the subject property in favour of the Respondent No.6, who raised the illegal / unauthorized commercial construction on the same. He categorically admitted that the construction was made without any sanctioned map / plan by the Respondent No.6. However, he has no objection, if the construction is demolished and he shall not claim any compensation from the Respondent

[6] It has been pointed out that respondent No. 6 in these petitions, Shri Vinod Arora S/o Late K.L. Arora, has expired. It has also been pointed out that he has been a party in these matters in his capacity as power of attorney holder of the other private i.e., respondent No. 5.
Looking at the status of the parties and the subject matter of these petitions, as at present, we see no reason to require substitution of legal representatives of the deceased respondent.
Learned counsel for the parties may file short notes on their submissions while also clarifying the position at site, as existing today.
List these matters for final hearing at the admission stage on 27.04.2022.

No.1. Thus, according to the Respondent No.5, the Respondent No.6 was the original owner of the shops which were constructed on the subject property on the strength of the power of attorney executed by the Respondent No.5. Whereas, it was stated by the Respondent No.6 before the High Court that it was the Respondent No.5, who had raised construction of the shops and had sold the same to the different persons.

10. Heard the learned counsel appearing for the appellants as well as the Respondent No.1 and the Respondent Nos.2 to 4 and also perused the materials available on record carefully and meticulously.

11. This Court on 17.12.2014[7] in SLP(CC) No.21102 of 2014[8], granted an order of *status quo* in respect of the shop nos.6 and 10 situated in the subject property on condition that the appellants deposit a sum of Rs.10,00,000/- on or before 23.12.2014. The said order was duly complied with by the appellants. Thereafter, as per the order dated 22.01.2015 passed by this Court, the deposited amount was kept in interest bearing account. It is revealed from the latest office report dated 18.11.2024 that amount of Rs.10,00,000/- deposited by the

[7] The notice shall be issued, subject to the petitioner depositing a sum of Rs.10,00,000/- before this Court by 23"" December, 2014.
Status quo, existing as on today, qua the Shop Nos.10 and 6, Ground Floor, Plot No.661/ 6, Bhoomi Vikas, Grisathan Yojna No. 7, Sector No.6, Phase-I, Shastri Nagar, Meerut, U.P., of the petitioner Nos.1 and 2 respectively, shall be maintained till the next date of hearing.

[8] Arising out of which is SLP(C) No.36440 of 2014

appellants in SLP(C)No.36440 of 2014, was kept in an interest-bearing Fixed Deposit with UCO Bank, Supreme Court Compound, which is being renewed from time to time and is now bearing the next date of maturity on 10.05.2025.

12. This Court also granted an order of *status quo* on 05.01.2015[9] in SLP(CC) No.21820 of 2014[10]. Subsequently, at the instance of the appellants, on 30.11.2018[11], the said order was clarified by this Court to the effect that it confined to the shops of the seven appellants in the subject property.

13. Concededly, the appellants are third parties to the writ proceedings. They have come up with these appeals stating that they are the most affected persons by the order passed by the High Court and will be deprived of their livelihood if the same is implemented. It is the principal contention of the learned counsel appearing for the appellants that the shops have been in existence for the past 24 years and the appellants are the owners of the same by virtue of the registered

[9] Permission to file special leave petition is granted.
Issue notice, returnable within eight weeks.
Status quo, existing as on today, shall be maintained until further orders.

[10] Arising out of which is SLP (C) No.1184 of 2015

[11] I.A. No. 98823/2017 is for seeking a clarification of the order of this Court dated 5.1.2015 so that the status quo as directed should be maintained in respect of the shops of the seven petitioners in the special leave petition.
Our attention has been drawn to the fact that an order was passed by this Court on 17.12.2014 in another special leave petition bearing SLP(C) No. 36440/2014 to that effect.
Hence, we direct that the order of status quo dated 5.1.2015 shall stand confined to the shops of the seven petitioners in plot No. 661/6 in Bhumi Vikas, Grihsthan Yojana No.7, Sector-6, Phase-I, Shastri Nagar, Meerut, U.P.
The I.A. is, accordingly, disposed of.
List the matter in the second week of January, 2019 along with SLP(C) No. 36440/2014.

sale deed and the Respondent No.1 was fully aware of the construction made on the subject property from its inception. However, without issuing any notice to the appellants and occupants of the shops, the order of demolition came to be passed and hence, it is arbitrary, illegal and in violation of the principles of natural justice.

14. The facts remain undisputed are that the Respondent No.5 was allotted the subject property on 30.08.1986 and possession was handed over to him on 15.06.1989. The Respondent No.1 had executed a sale deed cum free hold deed in favour of the Respondent No.5 in respect of the subject property, on 06.10.2004. It is alleged by the Respondent No.1 that the said deed was executed by the Respondent No.1 based on the fabricated construction completion certificate produced by the Respondent No.5 and he with the assistance of the Respondent No.6, after possession, started to construct commercial shops, without obtaining sanctioned map / plan / approval from the competent authority. Clause 6-B of the said deed dated 06.10.2004 specifically stated that the property shall be used only for the residential purposes. It was also clearly mentioned in Clause 8 that the said property shall not be used for any purposes other than residential purposes and the Registered intending buyer shall always follow the rules and bylaws of the Council in respect of the property sold. However, there was no material available to prove that the Respondent No.5 was in possession of the sanctioned plan in respect of the construction made on the subject property or that he submitted any application

before the authority concerned seeking sanction / approval for such construction and the same was pending. It is also pertinent to mention at this juncture that the Respondent Nos.5 and 6 before the High Court categorically admitted that the construction of the commercial shops was made without there being any sanctioned plan from the competent authority. The survey report produced by the Respondent No.1 relating to Scheme No.7, Shastri Nagar, Meerut, would further disclose that there are 6379 sanctioned residential properties, in which 860 plots have been used for commercial purpose. Therefore, it is crystal clear that the Respondent Nos.5 and 6 without obtaining sanctioned plan / approval from the competent authority, illegally / unauthorizedly constructed the shops on the subject property, for commercial purposes and sold to the appellants and others for valuable consideration.

15. Undoubtedly, the competent authority under section 83 of the Act, is empowered to remove the unauthorized construction. As stated earlier, in this case, the plot allotted to the Respondent No.5 was residential in nature and the same was illegally used for commercial purpose and therefore, the construction raised on the subject property was liable to be removed by the competent authority. However it is the specific case of the appellants that the Respondent No.5 started to construct the commercial shops in the year 1990 itself, i.e., immediately after taking possession of the subject property and the Respondent No.1 was fully aware of such construction made by the Respondent No.5, from

its inception, but they did not take immediate steps against the same. It can be reasonably inferred that the Respondent No.1 was aware of the construction made on the subject property at the beginning itself, which prompted them to issue show cause notice dated 19.09.1990 to the Respondent No.5 to stop the illegal construction and take appropriate steps. Without giving reply to the same, the Respondent No.5 continued to raise illegal commercial construction on the plot allotted to him. Thereafter, *vide* letter dated 27.09.2002, the Respondent No.1 instructed the Respondent No.5 to get the illegal construction regularized. But the Respondent No.5 did not respond to the same and he continued the illegal construction of some more shops on the subject property. Therefore, the Respondent No.1 sent a notice dated 09.02.2004 to the Respondent No.5 stating that the plot allotted to him was being illegally used for commercial purpose and hence, the construction raised on the subject property was liable to be removed under section 83 of the Act. Even thereafter, the Respondent No.5 failed to reply to the said notice, which compelled the competent authority to pass an order of demolition dated 23.03.2005 for removal of unauthorized construction. However, the said order could not be executed by the Respondent No.1. In the meanwhile, the shops constructed on the subject property were purchased by the appellants herein and others, which was not intimated to the Respondent No.1 by the Respondent No.5. It is also evident from the records that in the year 2011, the Respondent No.5 again started to raise the illegal construction on the subject property, which was

objected to by the Respondent No.1 by issuing notice dated 20.04.2011 and directing him to immediately stop the unauthorized construction and show cause as to why the same should not be demolished. However, there was no reply on the side of the Respondent No.5. Finding no other alternative, the competent authority by exercising powers under section 83 of the Act, passed the order dated 31.05.2011 to demolish the said illegal construction raised on the subject property. Thus, from 1990 onwards, though the Respondent No.1 had periodically issued notices for removal of unauthorized constructions, it did not lead to actual removal/ demolition. Despite sufficient opportunities being granted to Respondent Nos.5 and 6 they did not utilize the same and continued the illegality. Such parties cannot plead estoppel. Even otherwise, we are of the view that there cannot be any estoppel against law. The lapses on the part of the authorities will not vest any person with a right to put up construction without planning approval and in violation of the conditions regarding usage. However, the fact that the notices issued by the authorities between 1990 to 2013 did not culminate into demolition, would speak volumes about the lackadaisical attitude of the authorities and that also smacks of collusion with the violators. Therefore, the fact that the building has stood over 24 years will not clothe the appellants with any right in law and hence we do not find any force in the contentions of the counsel for the appellants alleging delay and latches.

16. As regards the allegation raised by the appellants that without issuing any notice, the order of demolition came to be passed against them, the records

reveal that before passing the order of demolition dated 30.05.2011 by the competent authority, the Respondent No.1 sent show cause notice dated 20.04.2011 to the Respondent No.5 pointing out the raising of commercial construction illegally on the plot allotted for residential use, that too, without sanctioned map / plan and permission accorded. Subsequently, the copy of the notice served on the Respondent No.5 was pasted on the notice board. But the Respondent No.5 failed to appear before the authority concerned to put forth his stand. Therefore, the Respondent No.1 passed the order dated 31.05.2011 for demolishing the unauthorized construction, but the same did not take place.

16.1. Even thereafter, the Respondent No. 5 continued to raise illegal commercial construction, which led the Respondent No.1 to lodge a First Information Report on 29.07.2013 and also sought for assistance from Respondent No. 4 for demolition. However, on account of the fact that there was no assistance from the police, the demolition could not be proceeded with. It is thereafter that the Respondent No.1 approached the High Court by filing the writ petition. It is clear from the above narration of facts that there has been no violation of the principles of natural justice and the Respondent No.1 after sending notices to the original allottee i.e., Respondent No.5 took steps to remove the unauthorized construction made on the subject property. Therefore, the action impugned now is not *de novo* action, but only continuation of the earlier line of events as stated above.

16.2 As regards the rights of the appellants, independent from that of Respondent No.5, are concerned, we are unable to believe that the appellants did not even verify the original allotment order before purchase of the property to know the permissible use of the property and the factum of existence or otherwise of any approval in respect of the commercial building purchased by them. In this regard, the doctrine of Caveat Emptor would require the buyer to perform all acts within his capacity to ascertain the title of the seller and the defects in the property. Further, Sub-section (1) (a) of Section 55 of the Transfer of Property Act makes it clear when the buyer with ordinary care is not able to ascertain the material defect in the property or in the seller's title, it becomes the duty of the seller to disclose the same though it is the primary responsibility is on the buyer to ascertain the defects in the property and the title. In the present case, it appears that neither the appellants as buyers nor the Respondent No. 5 as seller have performed their obligations under the law. Having said this, it is pertinent to mention here that some notices have also been issued after the appellants have come into occupation of the premises. Thus, the contention of the appellants that they were not put on notice and that the orders are in violation of the principles of natural justice, is a fig leaf of a defence that can hardly have any basis in law.

17. The deed dated 06.10.2004 said to have been executed by the

Respondent No.1 granting freehold right to the Respondent No.5 while simultaneously issuing notices against unauthorized constructions, does not inspire the confidence of this court. In any event the said grant is also subject to a condition that it shall be used for residential purpose and hence it cannot be treated as a licence to construct the shops without any sanction/approval. That apart, the registration of the property would not in any way amount to regularizing the unauthorized construction. The power to take action against an unauthorized construction is independent and not in anyway connected to the Registration Act. Seen from any angle the appellants cannot claim that the construction of shops was in accordance with law.

18. Notably, the High Court, in the order impugned herein, clearly observed that the officials who are responsible for ensuring planned land development and for ensuring that no unauthorized/illegal constructions take place, themselves start colluding with the land mafias. A situation has been created, where the authority itself is forced to approach the High Court for a writ of mandamus to the district police to provide help in the matter of demolition of the unauthorized constructions, which have been raised within the jurisdictional territory of the authority concerned. Having held thus, and also considering the stand of the Respondent Nos.5 and 6 that they have no objection for demolition of the unauthorized construction, the High Court passed the order of demolition with direction to the authorities. We find no reason much less valid reason to

interfere with the well-reasoned order passed by the High Court.

19. In a catena of decisions, this Court has categorically held that illegally of unauthorized construction cannot be perpetuated. If the construction is made in contravention of the Acts / Rules, it would be construed as illegal and unauthorized construction, which has to be necessarily demolished. It cannot be legitimized or protected solely under the ruse of the passage of time or citing inaction of the authorities or by taking recourse to the excuse that substantial money has been spent on the said construction. The following decisions are of relevance and hence cited herein below to drive home the point that unauthorized constructions must be dealt with, with an iron hand and not kid gloves.

(i) In *K. Ramadas Shenoy v. Chief Officers, Town Municipal Council*[12], after having found that the impugned resolution sanctioning plan for conversion of building into a cinema was in violation of the Town Planning Scheme and hence, it has no legal foundation, this Court held that the High Court was wrong in not quashing the resolution on the surmise that money might have been spent. The relevant passage reads as follows:

> *"29. The Court enforces the performance of statutory duty by public bodies as obligation to rate payers who have a legal right to demand compliance by a local authority with its duty to observe statutory rights alone. The scheme here is for the benefit of the public. There is special interest in the performance of the duty. All the residents in the area have their personal interest in the*

[12] (1974) 2 SCC 506

performance of the duty. The special and substantial interest of the residents in the area is injured by the illegal construction.

30. The High Court was not correct in holding that though the impeached resolution sanctioning plan for conversion of building into a cinema was in violation of the Town Planning Scheme yet it could not be disturbed because Respondent No.3 is likely to have spent money. An excess of statutory power cannot be validated by acquiescence in or by the operation of an estoppel. The Court declines to interfere for the assistance of persons who seek its aid to relieve them against express statutory provision. Lord Selborne in Maddison v. Alderson [1883] 8 App. Cases 467 said that courts of equity would not permit the statute to be made an instrument of fraud. The impeached resolution of the Municipality has no legal foundation. The High Court was wrong in not quashing the resolution on the surmise that money might have been spent. Illegality is incurable.

31. For the foregoing reasons, the appeal is accepted. The order of the High Court leaving resolution dated 19 June, 1970 being Annexure 'D' to the petition undisturbed is set aside. The resolution dated 19 June, 1970 being Annexure 'D' to the petition before the High Court is quashed. The parties will pay and bear their own costs."

(ii) *Dr.G.N. Khajuria and others v. Delhi Development Authority and others*[13]**,** in which, the Authority concerned misused the power and allotted the plot earmarked for park for a nursery school. This Court vehemently condemned the same and ordered for cancellation of the said allotment, besides recommending penal action against the authority concerned. The relevant paragraphs are extracted below:

"8. We, therefore, hold that the land which was allotted to Respondent 2 was part of a park. We further hold that it was not open to the DDA to carve out any space meant for park for a nursery school. We are of the considered view that the allotment in favour of Respondent 2 was misuse of power, for reasons which need not be adverted. It is, therefore, a fit case, according to us, where the allotment in favour of Respondent 2 should be cancelled and we order accordingly. The fact that Respondent 2 has put up some structure stated to be permanent by his counsel is not relevant, as the same has been done on a plot of land allotted to it in contravention of law. As to the submission that dislocation

[13] (1995) 5 SCC 762

from the present site would cause difficulty to the tiny tots, we would observe that the same has been advanced only to get sympathy from the Court inasmuch as children, for whom the nursery school is meant, would travel to any other nearby place where such a school would be set up either by Respondent 2 or by any other body.

9. The appeal is, therefore, allowed by ordering the cancellation of allotment made in favour of Respondent 2. It would be open to this respondent to continue to run the school at this site for a period of six months to enable it to make such alternative arrangements as it thinks fit to shift the school, so that the children are not put to any disadvantageous position suddenly.

10. Before parting, we have an observation to make. The same is that a feeling is gathering ground that where unauthorised constructions are demolished on the force of the order of courts, the illegality is not taken care of fully inasmuch as the officers of the statutory body who had allowed the unauthorised construction to be made or make illegal allotments go scot free. This should not, however, have happen for two reasons. First, it is the illegal action/order of the officer which lies at the root of the unlawful act of the citizen concerned, because of which the officer is more to be blamed than the recipient of the illegal benefit. It is thus imperative, according to us, that while undoing the mischief which would require the demolition of the unauthorised construction, the delinquent officer has also to be punished in accordance with law. This, however, seldom happens. Secondly, to take care of the injustice completely, the officer who had misused his power has also to be properly punished. Otherwise, what happens is that the officer, who made the hay when the sun shined, retains the hay, which tempts others to do the same. This really gives fillip to the commission of tainted acts, whereas the aim should be opposite."

(iii) In *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*[14], this court in clear terms, held that there is no alternative to the construction which is unauthorised and illegal to be dismantled. The relevant paragraphs read thus:

"13. There is no alternative to the construction which is unauthorised and illegal to be dismantled. The whole structure built is in contravention of the provisions of law as contained in the Development Act. The decision to award contract and the agreement itself was unreasonable. The construction of the underground shopping complex, if allowed to stand, would perpetuate an illegality. Mahapalika could not be allowed to benefit from the illegality. A decision of this Court in Seth Badri Prasad and others vs. Seth Nagarmal and

[14] (1999) 6 SCC 464

others (1959 (1) Supp. SCR 769 at 774) was referred to, to contend that the court could not exclude from its consideration a public statute and since the construction of the underground shopping complex was wholly illegal it had to be dismantled. No question of moulding a relief can arise as the builder made construction on the basis of the interim order of this Court and at its own risk."

"73. The High Court has directed dismantling of the whole project and for restoration of the park to its original condition. This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering the rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise judicial discretion in moulding the relief. Such a discretion cannot be exercised which encourages illegality or perpetuates an illegality. Unauthorised construction, if it is illegal and cannot be compounded, has to be demolished. There is no way out. Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judges are not entitled to exercise discretion wearing the robes of judicial discretion and pass orders based solely on their personal predilections and peculiar dispositions. Judicial discretion wherever it is required to be exercised has to be in accordance with law and set legal principles. As will be seen in moulding the relief in the present case and allowing one of the blocks meant for parking to stand, we have been guided by the obligatory duties of the Mahapalika to construct and maintain parking lots."

"81. A number of cases come to this Court pointing to unauthorised constructions taking place at many places in the country by builders in connivance with the corporation/municipal officials. In a series of cases, this Court has directed demolition of unauthorised constructions. This does not appear to have any salutary effect in cases of unauthorised construction coming to this Court. While directing demolition of unauthorised construction, the court should also direct an enquiry as to how the unauthorised construction came about and to bring the offenders to book. It is not enough to direct demolition of unauthorised construction, where there is clear defiance of law. In the present case, but for the observation of the High Court, we would certainly have directed an enquiry to be made as to how the project was conceived and how the agreement dated 4-11-1993 came to be executed."

(iv) In *Esha Ekta Apartments Coop Housing Society Limited v. Municipal Corporation of Mumbai*[15]**,** it was observed by this Court that the courts are expected to refrain from exercising equitable jurisdiction for regularisation of

[15] (2013) 5 Supreme Court Cases : (2013) 3 Supreme Court Cases (Civil) 89

illegal and unauthorised constructions and the relevant passage of the said decision is extracted below:

> *"1. In the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small, and those entrusted with the task of ensuring implementation of the master plan, etc. have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the authorities concerned against arbitrary regularisation of illegal construction by way of compounding and otherwise."*
>
> *"8. At the outset, we would like to observe that by rejecting the prayer for regularisation of the floors constructed in wanton violation of the sanctioned plan, the Deputy Chief Engineer and the appellate authority have demonstrated their determination to ensure planned development of the commercial capital of the country and the orders passed by them have given a hope to the law-abiding citizens that someone in the hierarchy of administration will not allow unscrupulous developers/builders to take law into their own hands and get away with it."*
>
> *"56. We would like to reiterate that no authority administrating municipal laws and other similar laws can encourage violation of the sanctioned plan. The courts are also expected to refrain from exercising equitable jurisdiction for regularisation of illegal and unauthorised constructions else it would encourage violators of the planning laws and destroy the very idea and concept of planned development of urban as well as rural areas."*

(v) The aforesaid view was reiterated in *Supertech Limited v. Emerald Court Owner Resident Welfare Association and others*[16] by holding that illegal constructions have to be dealt with strictly to ensure compliance with rule of law. The relevant paragraphs read as under:

> *"159. The rampant increase in unauthorised constructions across urban areas, particularly in metropolitan cities where soaring values of land place a premium on dubious dealings has been noticed in several decisions of this Court. This state of affairs has often come to pass in no small a measure because of the collusion between developers and planning authorities.*

[16] (2021) 10 SCC 1

160. From commencement to completion, the process of construction by developers is regulated within the framework of law. The regulatory framework encompasses all stages of construction, including allocation of land, sanctioning of the plan for construction, regulation of the structural integrity of the structures under construction, obtaining clearances from the different departments (fire, garden, sewage etc.,) and the issuance of occupation and completion certificates. While the availability of housing stock, especially in metropolitan cities, is necessary to accommodate the constant influx of people, it has to be balanced with two crucial considerations - the protection of the environment and the well-being and safety of those who occupy these constructions. The regulation of the entire process is intended to ensure that constructions which will have a severe negative environmental impact are not sanctioned. Hence, when these regulations are brazenly violated by developers, more often than not with the connivance of regulatory authorities, it strikes at the very core of urban planning, thereby directly resulting in an increased harm to the environment and a dilution of safety standards. Hence, illegal construction has to be dealt with strictly to ensure compliance with the rule of law.

161. The judgments of this Court spanning the last four decades emphasise the duty of planning bodies, while sanctioning building plans and enforcing building regulations and bye-laws to conform to the norms by which they are governed. A breach of the planning authority of its obligation to ensure compliance with building regulations is actionable at the instance of residents whose rights are infringed by the violation of law. Their quality of life is directly affected by the failure of the planning authority to enforce compliance. Unfortunately, the diverse and unseen group of flat buyers suffers the impact of the unholy nexus between builders and planners. Their quality of life is affected the most. Yet, confronted with the economic might of developers and the might of legal authority wielded by planning bodies, the few who raise their voices have to pursue a long and expensive battle for rights with little certainty of outcomes. As this case demonstrates, they are denied access to information and are victims of misinformation. Hence, the law must step in to protect their legitimate concerns."

(vi) In *Kerala State Costal Zone Management Authority vs. Maradu Municipality*[17], it was once again reiterated that illegal and unauthorised constructions put up with brazen immunity, cannot be permitted to remain. The relevant passage of the said decision is quoted below:

"107. At this stage, we must deal with the argument raised before us by the company. It is submitted that a world class resort has been put up which will

[17] (2021) 16 SCC 822

promote tourism in a State like Kerala which does not have any industries as such and where tourism has immense potential and jobs will be created. It is submitted that the Court may bear in mind that the company is eco-friendly and if at all the Court is inclined to find against the company, the Court may, in the facts of this case, give direction to the company and the company will strictly abide by any safeguards essential for the preservation of environment.

108. We do not think that this Court should be detained by such an argument. The Notification issued under the Environment (Protection) Act is meant to protect the environment and bring about sustainable development. It is the law of the land. It is meant to be obeyed and enforced. As held by the Apex Court, construction in violation of the Coastal Regulation Zone Regulations is not to be viewed lightly and he who breaches its terms does so at his own peril. The fait accompli of constructions being made which are in the teeth of the Notification cannot present, but a highly vulnerable argument. We find that the view taken by the Kerala High Court in aforesaid decision is appropriate. Permission granted by the Panchayat was illegal and void. No such development activity could have taken place. In view of the findings of the Enquiry, Committee, let all the structures be removed forthwith within a period of one month from today and compliance be reported to this Court."

(vii) In *State of Haryana v. Satpal*[18], it was held that the High Court committed a very serious error in directing to legalise the unauthorized occupation and possession made by the original writ petitioners on payment of market price and hence, it deserved to be quashed. The operative portion of the judgment is reproduced below:

"19. Under the circumstances, the High Court has committed a very serious error in directing to legalise the unauthorised occupation and possession made by the original writ petitioners on payment of market price. Even the other directions issued by the High Court are not capable of being implemented, namely, to segregate the vacant land from the residential house and which can be separated and utilised for earmarked purpose i.e. school premises. The unauthorised construction is in such a manner and even some areas are not used for residential purpose and some of the area is covered by vegetation and therefore, it is not possible to segregate and separate the same, which can be used for school premises. There is no other panchayati land and/or other land, which is available, which can be used as school premises/playground. The adjacent land belongs to some private persons and they are not ready to part with their land to be used as school premises/playground.

[18] (2023) 6 SCC 643

> *20. In view of the above and for the reasons stated above, the impugned judgment and order passed by the High Court and the directions issued (reproduced hereinabove) directing to legalise the unauthorised occupation and possession made by the original writ petitioners on the land, which is earmarked for school premises/playground is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. However, the original writ petitioners are granted 12 months' time to vacate the land, which is occupied by them unauthorisedly and if within one year from today, they do not vacate the lands in question, the appropriate authority is directed to remove their unauthorised and illegal occupation and possession."*

(viii) Finally, in a recent decision in *Re: Directions in the matter of demolition of structures*[19], while determining a question whether the executive should be permitted to take away the shelter of a family or families as a measure for infliction of penalty on a person, who is accused in a crime under our constitutional scheme, this Court has extensively analysed all the aspects and issued certain directions to the authorities. The penultimate paragraphs read as under:

> *"**IX. DIRECTIONS***
>
> *90. In order to allay the fears in the minds of the citizens with regard to arbitrary exercise of power by the officers/officials of the State, we find it necessary to issue certain directions in exercise of our power under Article 142 of the Constitution. We are also of the view that even after orders of demolition are passed, the affected party needs to be given some time so as to challenge the order of demolition before an appropriate forum. We are further of the view that even in cases of persons who do not wish to contest the demolition order, sufficient time needs to be given to them to vacate and arrange their affairs. It is not a happy sight to see women, children and aged persons dragged to the streets overnight. Heavens would not fall on the authorities if they hold their hands for some period.*
>
> *91. At the outset, we clarify that these directions will not be applicable if there is an unauthorized structure in any public place such as road, street, footpath,*

[19] 2024 SCC OnLine SC 3291

abutting railway line or any river body or water bodies and also to cases where there is an order for demolition made by a Court of law.

A. NOTICE

i. No demolition should be carried out without a prior show cause notice returnable either in accordance with the time provided by the local municipal laws or within 15 days' time from the date of service of such notice, whichever is later.

ii. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question.

iii. The time of 15 days, stated herein above, shall start from the date of receipt of the said notice.

iv. To prevent any allegation of backdating, we direct that as soon as the show cause notice is duly served, intimation thereof shall be sent to the office of Collector/District Magistrate of the district digitally by email and an auto generated reply acknowledging receipt of the mail should also be issued from the office of the Collector/District Magistrate. The Collector/DM shall designate a nodal officer and also assign an email address and communicate the same to all the municipal and other authorities in charge of building regulations and demolition within one month from today.

v. The notice shall contain the details regarding:

a. the nature of the unauthorized construction.

b. the details of the specific violation and the grounds of demolition.

c. a list of documents that the noticee is required to furnish along with his reply.

d. The notice should also specify the date on which the personal hearing is fixed and the designated authority before whom the hearing will take place;

vi. Every municipal/local authority shall assign a designated digital portal, within 3 months from today wherein details regarding service/pasting of the notice, the reply, the show cause notice and the order passed thereon would be available.

B. PERSONAL HEARING

i. The designated authority shall give an opportunity of personal hearing to the person concerned.

ii. The minutes of such a hearing shall also be recorded.

C. FINAL ORDER

i. Upon hearing, the designated authority shall pass a final order.

ii. The final order shall contain:

a. the contentions of the noticee, and if the designated authority disagrees with the same, the reasons thereof;

b. as to whether the unauthorized construction is compoundable, if it is not so, the reasons therefor;

c. if the designated authority finds that only part of the construction is unauthorized/noncompoundable, then the details thereof.

d. as to why the extreme step of demolition is the only option available and other options like compounding and demolishing only part of the property are not available.

D. AN OPPORTUNITY OF APPELLATE AND JUDICIAL SCRUTINY OF THE FINAL ORDER.

i. We further direct that if the statute provides for an appellate opportunity and time for filing the same, or even if it does not so, the order will not be implemented for a period of 15 days from the date of receipt thereof. The order shall also be displayed on the digital portal as stated above.

ii. An opportunity should be given to the owner/occupier to remove the unauthorized construction or demolish the same within a period of 15 days. Only after the period of 15 days from the date of receipt of the notice has expired and the owner/occupier has not removed/demolished the unauthorized construction, and if the same is not stayed by any appellate authority or a court, the concerned authority shall take steps to demolish the same. It is only such construction which is found to be unauthorized and not compoundable shall be demolished.

iii. Before demolition, a detailed inspection report shall be prepared by the concerned authority signed by two Panchas.

E. PROCEEDINGS OF DEMOLITION

i. The proceedings of demolition shall be video-graphed, and the concerned authority shall prepare a demolition report giving the list of police officials and civil personnel that participated in the demolition process. Video recording to be duly preserved.

ii. The said demolition report should be forwarded to the Municipal Commissioner by email and shall also be displayed on the digital portal.

92. Needless to state that the authorities hereinafter shall strictly comply with the aforesaid directions issued by us.

93. It will also be informed that violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution.

94. The officials should also be informed that if the demolition is found to be in violation of the orders of this Court, the officer/officers concerned will be held responsible for restitution of the demolished property at his/their personal cost in addition to payment of damages."

20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local

authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and

authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.

21. Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in *Re: Directions in the matter of demolition of structures* (supra):

(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.

(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the

authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.

(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.

(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, *etc.*, shall be given by the service provider / Board to the buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible

for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorized building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorized construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for

regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.

22. As far as the present case is concerned, we pass the following orders:

(i)The order of the High Court shall stand confirmed.

(ii)The appellants are directed to vacate and handover the vacant premises to the respondent authorities within a period of three months from the date of receipt of a copy of this judgment.

(iii)On such surrender, the respondent authorities shall take steps to demolish the unauthorised construction made on the subject property, within a period of two weeks therefrom.

(iv)All the authorities shall provide necessary assistance to the Respondent No.1 to execute the order of the High Court in its letter and spirit.

(v)Appropriate criminal as well as departmental action shall be taken against the erring officials / persons concerned in line with the order of the High Court and a report shall be filed before this Court.

(vi)The amount deposited by the appellants in SLP (C)No. 36440 of 2014 be refunded to them, along with accrued interest.

23. With the aforesaid observations and directions, these appeals stand dismissed. There is no order as to costs. Pending application(s), if any, shall stand disposed of.

……J.
[J.B. Pardiwala]

……J.
[R. Mahadevan]

NEW DELHI
DECEMBER 17, 2024.

NOTE:

1) The Registrar (Judicial) is directed to circulate a copy of this Judgment to the Registrar General of all the High Courts, so as to enable the High Courts to refer it, while considering the disputes relating to unauthorised construction, deviation / violation of building permission, plan, *etc*.

2) The Registrar (Judicial) is also directed to circulate a copy of this Judgment to the Chief Secretaries of all the States / Union Territories. All the State / UT Governments shall issue circulars to all the local authorities / Corporations, intimating them about the directions issued by this Court and for strict compliance.

Annexure - A-2

Calculation of Renewal Fees

(The Figures are tentative / approx and final amount shall be determined by DTCP)

Total Licensed Area		48.038 Acres
Area under Commercial		0.24 Acres
(0.24*1,85,00,000*10%)		₹ 4,44,000
Area under Residential		47.798 Acres
(47.798* 19,00,000 *10%)		₹ 90,81,620
Total		**₹ 95,25,620**
Area Under development		14.80 Acres
Area in sq ft		11,28,204
Renewal Fees on developed Area		**₹ 29,34,743**
(9525620/48.038*14.80)		
Renewal Fees	**(Rounded off)**	**₹ 30,00,000**

Calculation of Building Plans

(The Figures are tentative / approx and final amount shall be determined by DTCP)

Area	10.27 Acres	
FAR	14.80 Acres	
Area in sq ft	1128204	
Area in Sq. Mtr	104852	
Rate of fees for one term	₹ 10	
	(As per Haryana Building Code clause 4.4)	
Rate of fees for one term	₹ 40	
Fees for four term will be paid		
Ist Term 2008-2013		
IInd Term 2013-2018		
IIIrd Term 2018-2023		
Ivth Term 2023-2028		
Amount		₹ 41,94,067
Building Plan Fees	**(Rounded off)**	**₹ 42,00,000**

Calculation of EWS composition fees

(The Figures are tentative / approx and final amount shall be determined by DTCP)

Total Licensed Area	48.038 Acres	
Total composition fees for next five year	₹ 60,00,000	
(100000*60)		
Share of Ferrous		₹ 18,48,537
(60,00,000 *14.8/48.038)		
EWS Composition Fees	**(Rounded off)**	**₹ 19,00,000**

HARYANA GOVERNMENT

TOWN AND COUNTRY PLANNING DEPARTMENT

Notification

The 2nd February, 2015

No. PF-46/ 1961.— In exercise of the powers conferred by Sub-section (1) read with Sub-section (2) of Section 24 of the Haryana Development and Regulation of Urban Areas Act, 1975 (8 of 1975) and with reference to Haryana Government, Town and Country Planning Department, Notification No. PF-46/14500, dated the 3rd July, 2014, the Governor of Haryana hereby makes the following rules further to amend the Haryana Development and Regulation of Urban Areas Rules, 1976, namely:—

1. These rules may be called the Haryana Development and Regulation of Urban Areas (Amendment) Rules, 2014.

   They shall come into force with effect from the 4th April 2014. However, for the purpose of levy of licence renewal fees under sub-rule (1) of rule 13 of the Haryana Development and Regulation of Urban Areas Rules, 1976, the same shall come into effect from the 3rd July, 2014.

2. In the Haryana Development and Regulation of Urban Areas Rules, 1976, in the end, for the existing Schedule, the following Schedule shall be substituted, namely:—

"Schedule

[See rule 3]

RATES OF LICENCE FEE PER GROSS ACRE

(In lacs per gross acre)

Category of Uses	Hyper Potential Zone	High-I Potential Zone	High-II Potential Zone	Medium Potential Zone	Low Potential Zone
1	2	3	4	5	6
	Areas forming part of the development plan of Gurgaon-Manesar Urban Complex.	Areas forming part of Development Plan of Faridabad-Ballabgarh Complex, Pinjore-Kalka Complex , Gwal Pahari & Periphery Controlled area of Panchkula (All for commercial use only)	(i)Areas forming part of Development Plan of Faridabad-Ballabgarh Complex, Pinjore-Kalka Complex , Gwal Pahari and Periphery Controlled area of Panchkula (All for other than commercial use); (ii) Area forming part of Development Plan of Sonepat-Kundli Urban Area Complex and Panipat; (iii) Part of Sohna Development Plan falling in Gurgaon District; and	(i)Areas forming part of Development Plans of Karnal, Kurukshetra, Ambala, Yamuna Nagar-Jagadhari, Bahadurgarh, Hisar, Rohtak, Rewari, Gannaur, Palwal, Hodel, Bawal Dharuhera and Prithla; (ii) The urban areas declared under clause (o) of Section 2 of the Haryana Development and Regulation of Urban Areas Act,	All other urban areas in the State.

1	2	3	4	5	6
			(iv) Any other Urban Area declared under clause (o) of Section 2 of the Haryana Development and Regulation of Urban Areas Act, 1975 (8 of 1975), to cover the Controlled Area declared in Gurgaon District excluding the areas forming part of Development Plan of the Gurgaon-Manesar Urban Complex, Development Plan Pataudi and Farukhnagar.	1975 (8 of 1975) to cover the controlled areas declared under the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 (Punjab Act 41 of 1963) in Faridabad District (excluding the Controlled Areas of Faridabad-Ballabgarh Complex) and Oil Refinery, Panipat (Baholi) in Panipat District.	
Residential (Plotted)	12.50	____	9.50	6.25	1.25
Residential (Group Housing)	40.00	____	19.00	9.50	2.50
Commercial	**On Gurgaon-Mehrauli Road** (i) 540.00 for FAR above 150. (ii) 400.00 for FAR upto 150. **On other Roads** (i) 340.00 for FAR above 150. (ii) 270.00 for FAR upto 150.	(i) 270.00 for FAR above 150. (ii) 235.00 for FAR upto 150.	(i) 210.00 for FAR above 150. (ii) 140.00 for FAR upto 150.	(i) 95.00 for FAR above 150. (ii) 62.50 for FAR upto 150.	(i) 19.00 for FAR above 150. (ii) 12.50 for FAR upto 150.
Industrial	2.50	____	1.25	0.625	0.125
Low-density Eco-friendly colony	25	____	19	12.50	2.5.".

P. RAGHAVENDRA RAO,
Additional Chief Secretary to Government Haryana,
Town and Country Planning Department.

From

Principal Secretary to Government,
Town & Country Planning Department,
Haryana, Chandigarh.

To

The Director General,
Town & Country Planning Department,
Haryana, Chandigarh.

Memo No: 7/16/2006/2TCP Dated: 16.08.2013

Subject:- Composition rates for compounding of violations committed in allotment of EWS plots/ flats in licensed colonies, under the Haryana Development and Regulations of Urban Areas Act,1975 & Rules, 1976.

The Department of Town & Country Planning, Haryana, while granting licenses for development of residential plotted/group housing colonies under the provisions of Haryana Development & Regulation of Urban Areas Act, 1975, has been imposing conditions for provision of plots/flats for the EWS category persons and the allotment thereof within a specified period. However, while defending the matter in CWP No.14028 of 2011 title as Mukesh Kumar versus State, it has been observed by the Department that the licensees/colonisers have not made strict compliance of the above said provision. Such colonisers are liable to be penalised. However, for composition of the offence committed by the colonisers/licensees in the past, the Governor of Haryana, in accordance with the powers conferred under section 9A of the Haryana Development & Regulation of Urban Areas Act, 1975 is pleased to formulate the following composition policy:-

1. This policy shall be applicable in the entire State of Haryana.
2. The Hyper, High, Medium and Low Potential zones prescribed in this policy shall have the same meaning and jurisdiction as specified in the gazette notification no. DS-II-2006/29996, dated the 4th December, 2006 or as revised from time to time.
3. Composition Charges for delay in allotment of EWS plots/ flats will be as under:-

Sr.No	Item	Composition rates/charges
1	2	3
(i)	If the process of allotment was not completed within the scheduled time period but was completed upto 31.12.2012	One time payment of Rs.1,00,000/-, Rs.50,000/-, Rs.25,000/- per colony for Hyper/High, Medium and Low Potential Zone respectively.
(ii)	Those who have failed to complete process of allotment by 31.12.2012, will be allowed time upto 30.06.2014 to complete the process of allotment after payment of composition fee as provided.	One time payment of Rs.2,00,000/-, Rs.1,00,000/-, Rs.50,000/-per colony for Hyper/High, Medium and Low Potential Zone respectively.
(iii)	After 30.06.2014, if the process of allotment is not completed within the scheduled time period.	Rs.1,00,000/-, Rs.50,000/-, Rs.25,000/-per colony per month for Hyper/High, Medium and Low Potential Zone respectively from the due date upto which process of allotment is to be completed as per the terms and conditions of license/ building plans, till the date of compliance.

4. **Refund of earnest money:-**

Further, if the refundable earnest money was not refunded before 31.12.2012, composition charges equivalent to 10% of the total refundable earnest money that remained with the coloniser beyond a period of six months from the date of draw of lots, for delay period of each one year or a fraction thereof, shall be charged.

5. **Penal interest for delay in refund of earnest money:-**

For the cases covered at Sr. no. 4 above, the coloniser will be required to refund the earnest money to the applicants alongwith 15% interest for the period beyond six months from the date of draw of lots and upto the date of actual payment.

Sd/-
(Anurag Rastogi, IAS),
Secretary
For: Principal Secretary to Government, Haryana,
Town and Country Planning, Department, Chandigarh.

(2) If a building is not completed within two years (or five years, as the case may be) of the date of permission, the sanction will be deemed to have lapsed with respect to that portion of the building which has not been completed. In regard to the incomplete portion of a building, a fresh application shall be submitted in accordance with **Code 2.1** and prescribed scrutiny fee.

(3) The temporary buildings, permitted by Competent Authority, shall not be allowed to stand three months beyond the validity of the sanctioned plans.

4.4. Re-validation of building plans.-- After sanction of building plan, in case the construction could not be started within two years (or five years, as the case may be) or has been started but could not be completed within the stipulated period, the owner/ applicant may apply for the revalidation of building plans before the sanction has lapsed simply by submitting re-validation fee @ Rs 10/- (rupees ten only) per square metre for the proposed covered area requested for re-validation. This revalidation of building plans be automatically considered from the date of submission of revalidation fee.

4.5. Deemed sanction.-- The Competent Authority shall pass an order within a period of sixty days of submission of building plans, accompanied by all necessary documents as mentioned in **Code 2.1**, either sanctioning or rejecting it. The building plan shall be deemed to be sanctioned, if it is in conformity with building Code and in accordance with the permitted land use of the area and all leviable fee/ charges have been deposited by the applicant but no orders have been passed by the Competent Authority within the specified time.

4.6. Submission of revised building plans during the validity period of sanction.-- (1) If during the construction of a building, any deviation from the sanctioned plan is intended to be made, approval of the Competent Authority for the same may be obtained before the change is made. The revised plan showing the deviations shall be submitted and the procedure laid down for the sanction of building plan as stated in **Code No. 2.1 and 2.2,** shall be followed for all revised plans, along with the depositing balance scrutiny fee, if any.

(2) Any notice and building approval is not necessary for compoundable alterations/ violations, which do not otherwise violate

has been obtained by the owner by misrepresentation of material facts or fraudulent document submitted along with the building plan application or otherwise or the construction is not being done in accordance with the sanction granted.

4.8. Maintenance of E-Register for sanction/ Registration of Building Plans.-- An online E-register shall be maintained for all building applications received, permissions given or deemed to have been given or refused or returned under this Code. The said register shall be available online to public for inspection on Departmental website.

4.9. Damp Proof Course certificate.-- The owner (or the Architect, in case of self certification) shall submit a certification from an Architect (or by himself, in case of self certification) that the construction of building upto DPC level is as per sanctioned plan. The Competent Authority shall verify the certification and shall issue consent/ comments within 15 days of receiving the certification. The DPC certificate shall deemed to be accepted, if it is in conformity with Code, but no consent/ comments have been passed by Competent Authority within specified time.

4.10. Occupation Certificate.-- (1) Every person who intends to occupy such a building or part thereof shall apply for the occupation certificate in Form **BR-IV(A) or BR-IV(B),** which shall be accompanied by certificates in relevant Form **BR-V(1) or BR-V(2)** duly signed by the Architect and/ or the Engineer and along with following documents:

(i) Detail of sanctionable violations from the approved building plans, if any in the building, jointly signed by the owner, Architect and Engineer.

(ii) Complete Completion drawings or as-built drawings along with completion certificate from Architect as per **Form BR-VI.**

(iii) Photographs of front, side, rear setbacks, front and rear elevation of the building shall be submitted along with photographs of essential areas like cut outs and shafts from the roof top. An un-editable compact disc/ DVD/ any other electronic media containing all photographs shall also be submitted.

(iv) Completion certificate from Bureau of Energy Efficiency

Annexure - A-3

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
COURT-III

ITEM No. 107
New IA-361/2025
In
IB-20(ND)/2022

IN THE MATTER OF:
M/s. Leena Batra .... Petitioner/Applicant
Vs.
M/s. Ferrous Infrastructure Pvt. Ltd. .... Respondent

Order under Section 7 of the Insolvency and Bankruptcy Code, 2016

Order delivered on 22.01.2025

CORAM:
SHRI BACHU VENKAT BALARAM DAS
HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:
For Applicant/RP : Mr. Sumant Batra, Adv., Mr. Sarthak Bhandari, Ms. Ayat Khusheed Advs.

ORDER

IA-361/2025

This application has been filed seeking the following prayers:-

a) *Allow the present application;*

b) *Grant an ad interim stay on the termination, suspension, or interruption of the license bearing no. 34,35, 36 dated 2007 granted by Directorate of Town & Country Planning/Respondent No. 1 qua the Corporate Debtor;*

c) *Issue appropriate directions against Directorate of Town & Country Planning/Respondent, i.e., not to terminate the license bearing no. 34,35, 36 dated 2007 issued on 01.03.2021;*

d) *Pass such other or further order / order(s) as may be deemed fit and proper in the facts and circumstances of the instant case.*

It is submitted by Ld. Counsel appearing for the Applicant that an amount of Rs. 1,02,80,000/- is payable towards the

renewal of the licence fee to the Directorate of Town and Country Planning, Government of Haryana.

Ld. Counsel submitted that no funds are available with the Corporate Debtor for paying the renewal fees and therefore, the Committee of Creditors constituting the home buyers have agreed to contribute for paying the renewal fees and accordingly passed a resolution. The extracts of the relevant paragraphs of the application are as under:

> *"**...12.** The Applicant convened a meeting of the Committee of Creditors (CoC) on 13.01.2025 to approve of the development and seek contribution of its members to mobilise the renewal fees. During this meeting, the members of the CoC decided to put resolution to vote that all the homebuyers of the Faridabad project would contribute to meet the cost of the license renewal. The relevant extract of the 27th CoC meeting dated 13.01.2025 is extracted below:*
>
> *"RESOLUTION NO. 2:*
> *TO APPROVE RAISING CONTIBUTION FROM THE HOMEBUYERS OF FARIDABAD PROJECT FOR RENEWAL OF THE LICENCE: To consider and if found fit, to pass with or without modification the following Resolution: "RESOLVED THAT Resolution Professional be and is hereby authorized to raise demand/contribution from the homebuyers of Faridabad Project as demanded by the Maximal Infrastructure Pvt. Ltd. amounting to Rs.1,02,80,000 (One Crore Two Lakhs Eighty Thousand) for the purpose of payment of renewal fees of license to DTCP. FURTHER RESOLVED THAT, the RP is hereby authorized to take all necessary actions to collect this contribution from the homebuyers and ensure the timely payment for the renewal of the license."*
>
> ***13.** It was approved in the 27th CoC meeting by a majority of 98.75% CoC members to raise contribution from the homebuyers of Faridabad Project to meet the demanded raised by the Maximal Infrastructure Pvt. Ltd. amounting to Rs.1,02,80,000 for the purpose of payment of renewal*

fees of license to DTCP. However, collection of this amount from members of CoC is a time-consuming exercise and it is unlikely that the amount needed to pay renewal fees would be contributed before 22.01.2025. It may take a few more days or weeks. In the meantime, the license, if not renewed by payment of fees, it would lapse under the provisions of The Haryana Development and Regulation of Urban Areas Act, 1975.

15. *In view of CoC agreeing to contribute to meet such renewal fees a, the Corporate Debtor will likely be able to pay renewal fees to DTCP, but not before 22.01.2025. Therefore, the Applicant is seeking protection from cancellation of license by DTDC under S. 14(1) of I&B Code in the meantime.*

Having regard to the facts and circumstances of the case as well as the submissions made by Mr. Sumant Batra, Learned Counsel appearing on behalf of the Applicant, we deem it appropriate to grant liberty to the Applicant to approach the concerned authority i.e. Directorate of Town and Country Planning, Government of Haryana, Respondent No. 1 herein for seeking appropriate reliefs.

IA **disposed of** with the above directions.

Urgent certified copy of the order be provided by the Registry during the course of the day.

-Sd-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

-Sd-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

SURBHI

FERROUS INFRASTRUCTURE PRIVATE LIMITED (In CIRP)
CIN: U45201DL2006PTC145748
Regd. Addr.: B-22, Lower Ground Floor, Jangpura Extension, South Delhi, Delhi- 110014

24 January 2025

Annexure - A-4

To,

Directorate of Town and Country Planning, Haryana
Nagar Yojna Bhavan, Plot No. 3,
Sector 18 A, Madhya Marg,
Chandigarh- 160018

Subject:

i. *Renewal of license no. 34, 35 and 36 of 2007 dated 23.01.2007 qua Ferrous Infrastructure Pvt. Ltd.;*
ii. *Moratorium under Section 14 of the Insolvency and Bankruptcy Code 2016 (Code) in respect of Ferrous Infrastructure Pvt. Ltd by Hon'ble National Company Law Tribunal (NCLT) vide order dated 02.02.2023; and*
iii. *Order dated 22.1.2025 passed by the Hon'ble NCLT in I.A. No. 361 of 2025 in C.P. (IB) No 20 of 2022.*

Dear Sir,

1. I invite your kind attention to the orders dated 24.04.2020 and 09.10.2020 passed by the Hon'ble Supreme Court in Contempt Petition(C) No. 34/2016. Copies enclosed.

2. I also invite your attention to Memo no. Memo No. LC-810 Vol-XI-JE (SK)-2022/3409-10dated 08.02.2022 and license no. 34, 35 and 36 all dated 23.01.2007 issued by your good office, approving assignment of Joint development & Marketing rights to Ferrous Infrastructure Pvt. Ltd. (**"Corporate Debtor"**), for an area measuring 10.27 acres (FSI) comprising of 14.80 acres(FAR) out of total licenced area measuring 48.038 acres under licence no. 34-36 of 2007 dated 23.01.2007 granted for development of Group Housing Colony in Sector-89, Faridabad. Copies enclosed.

3. It is also to bring in your kind attention that your good office vide memo number LC-810-Vol-XJE(SK)-2021/4981 dated 01.03.2021 had renewed the license number 34, 35 and 36 till 22.01.2025 after receipt of EDC, IDC, renewal fees, revalidation fees etc. of area falling in the share of the Corporate Debtor. Copy enclosed

4. In the meantime, pursuant to the order dated 02.02.2023 passed by the Hon'ble NCLT in CP No. (IB) 20 (ND/2022), the Corporate Insolvency Resolution Process (CIRP) was initiated with respect to Ferrous Infrastructure Pvt. Ltd. (Corporate Debtor) under the Code. I have been appointed as the Resolution Professional (RP) of the Corporate

For M/s Ferrous Infrastructure (P) Ltd. - In CIRP

Corresp. Addr.: Unit 2514, 5th Floor, Tower A, The Correnthum, A-41, Sector-62, Noida, U.P.-201301.
Email Id: cirp.ferrousinfra@gmail.com | Contact No: 9312680896

Resolution Professional

Debtor by the Hon'ble NCLT by an order dated 19.09.2023 passed by this Hon'ble Tribunal in IA-4944/2023. Copies of both orders are enclosed.

5. On admission of Corporate Debtor into IBC, a moratorium under S.14 of the Code, was passed by the Hon'ble NCLT by order dated 02.02.2023 prohibiting any action from being initiated or continued against the Corporate Debtor. Please see, order of Hon'ble NCLT referred above.

S.14 is reproduced below:

"14. Moratorium. - (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: - (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority; (b)transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein; (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); (d)the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor. 1 [Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;] (2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period. 2 [(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.] 1 [(3) The provisions of sub-section (1) shall not apply to — 2 [(a) such transactions, agreements or other arrangement as may be notified by the Central

For M/s Ferrous Infrastructure (P) Ltd. - In CIRP

Resolution Professional

Government in consultation with any financial sector regulator or any other authority;] (b) a surety in a contract of guarantee to a corporate debtor.] (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process: Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

6. In the meantime, a letter dated 21.12.2024 has been received from Maximal Infrastructure by RP stating that the license granted by DTCP is set to expire on 22.01.2025 and in order to renew the license the Corporate Debtor is required to pay a total of 1,02,80,000 as share of Corporate Debtor as renewal fees, with the DTCP.

7. The Corporate Debtor, currently in financial distress, lacks the necessary funds to pay ₹1,02,80,000 required for the renewal of the license.

8. Although Corporate Debtor is protected by S. 14 moratorium, but, in good faith and intent to pay your dues for renewal, RP convened a meeting of the Committee of Creditors (CoC) comprising of homebuyers (allottees) on 13.01.2025 to deliberate on this matter and request them to mobilize the renewal fees through contributions from its members. CoC has agreed to raise contributions from the homebuyers of the Faridabad Project. These contributions, when made, will meet the need of ₹1,02,80,000 for payment as renewal fees for the license to the DTCP.

9. However, contribution of funds by homebuyers will take time. The Corporate Debtor will likely not be able to pay renewal fees to DTCP before 22.01.2025. Therefore, RP moved an application I.A. No. 361 of 2025 before Hon'ble NCLT to seek relief for extension of time to pay renewal fees for license bearing no. 34, 35 and 36 of 2007 dated 23.01.2007 qua the Corporate Debtor, even though S. 14 protection is available to Corporate Debtor.

10. The matter came up for hearing on 22.01.2025. The Hon'ble NCLT has directed me to make a representation to you to the grounds stated in the application. Copy enclosed.

In view of the aforementioned order and considering that the Corporate Debtor is currently undergoing CIRP under severe financial distress, with a moratorium imposed under Section 14 of the Code, and is making efforts to mobilise funds to pay the renewal fees, it is requested that an extension of time to deposit renewal fees and make other compliances be given to Corporate Debtor enable the collection of necessary funds from homebuyers to pay the renewal license fees falling in its share and for making other compliances qua renewal of licence no. 34, 35 and

For M/s Ferrous Infrastructure (P) Ltd.- In CIRP

Resolution Professional

35 for the Corporate Debtor. Notably, in light of the provisions of the Code, and the peculiar facts and circumstances, no penalty or fine can be imposed during the CIRP period.

Thanking You

Yours Sincerely

For Ferrous Infrastructure Private Limited

For M/s Ferrous Infrastructure (I)- Ltd.- In CIRP

Resolution Professional

Ashish Singh
RP for M/s Ferrous Infrastructure Private Limited (In CIRP)
IP Reg. No: IBBI/IPA-002/IP-N00416/2017-2018/11230
AFA Valid Up to 31st December 2025
IBBI Reg. Address: Flat No. 901, Tower -A, Cleo County,
Sector - 121, Noida, Uttar Pradesh ,201301
Correspondence Address: 2514, 05th Floor, Tower - A,
The Corenthum, Sector – 62, Noida – 201301, India
Email: ashishsinghcs@gmail.com , cirp.ferrousinfra@gmail.com
Mobile: +91 9312680896

Annexure - A-5

Gmail **FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>**

Request for Extension of Time for Payment of Renewal Fees and Compliance for License No. 34, 35, and 36 of 2007

3 messages

FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com> 24 January 2025 at 17:32
To: tcpharyana7@gmail.com

Dear Sir,

Please find attached letter regarding the renewal of License No. 34, 35, and 36 of 2007, pertaining to Ferrous Infrastructure Pvt. Ltd. The letter outlines the current financial position of the Corporate Debtor, which is undergoing Corporate Insolvency Resolution Process (CIRP), and requests an extension of time for the payment of renewal fees for the aforementioned licenses.

I have also sent a physical copy of the letter via Speed Post to your office for your reference and further action.

We kindly request your consideration of the circumstances and grant the requested extension to enable the Corporate Debtor to collect the necessary funds and complete the payment as required.

Thank you for your understanding and cooperation.

Warm Regards,
Ashish Singh
RP of Ferrous Infrastructure Private Limited
IP Reg. No: IBBI/IPA-002/IP-N00416/2017-2018/11230
AFA Valid Up to 31st December, 2025

IBBI Reg. Address: Flat No. 901, Tower -A, Cleo County,

Sector - 121, Noida, Uttar Pradesh ,201301

Correspondence Address: 2514, 05th Floor, Tower - A,

The Corenthum, Sector – 62, Noida – 201301, India
Email: ip.ashishsingh@gmail.com, cirp.ferrousinfra@gmail.com

Mobile: +91 9312680896

DTCP_LETTER.pdf
1065K

FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com> 6 February 2025 at 14:34
To: tcpharyana7@gmail.com

REMINDER-1

Dear Sir,

This is with reference to the trailing mail regarding the renewal of License No. 34, 35, and 36 of 2007, pertaining to Ferrous Infrastructure Pvt. Ltd. The letter attached in the trailing email outlines the current financial position of the Corporate Debtor, which is undergoing Corporate Insolvency Resolution Process (CIRP), and requests an extension of time for the payment of renewal fees for the aforementioned licenses.

I have also sent a physical copy of the letter via Speed Post to your office for your reference and further action.

We kindly request your consideration of the circumstances and grant the requested extension to enable the Corporate Debtor to collect the necessary funds and complete the payment as required.

The copy of the Hon'ble NCLT order dated 22-01-2025 which is a part of letter dated 24-01-2025 is attached herewith.

Thank you for your understanding and cooperation.

Warm Regards,
Ashish Singh
RP of Ferrous Infrastructure Private Limited
IP Reg. No: IBBI/IPA-002/IP-N00416/2017-2018/11230
AFA Valid Up to 31st December, 2025

IBBI Reg. Address: Flat No. 901, Tower -A, Cleo County,

Sector - 121, Noida, Uttar Pradesh ,201301

Correspondence Address: 2514, 05th Floor, Tower - A,

The Corenthum, Sector – 62, Noida – 201301, India
Email: ip.ashishsingh@gmail.com, cirp.ferrousinfra@gmail.com

Mobile: +91 9312680896

[Quoted text hidden]

2 attachments

NCLT Order dated 22-01-2025 in IA 361 of 2025.pdf
100K

DTCP_LETTER.pdf
1065K

FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com> 24 February 2025 at 12:38
To: tcpharyana7@gmail.com

REMINDER-2

Dear Sir,

This is with reference to the trailing mail regarding the renewal of License No. 34, 35, and 36 of 2007, pertaining to Ferrous Infrastructure Pvt. Ltd. The letter attached in the trailing email outlines the current financial position of the Corporate Debtor, which is undergoing Corporate Insolvency Resolution Process (CIRP), and requests an extension of time for the payment of renewal fees for the aforementioned licenses.

I have also sent a physical copy of the letter via Speed Post on 27-01-2025 having consignment No. V86706613 to your good office for your reference and further action and the same was delivered to your good office on 29-01-2025 at 3:10 PM and received by Mr. Tarun Kumar.

We kindly request your consideration of the circumstances and grant the requested extension to enable the Corporate Debtor to collect the necessary funds and complete the payment as required.

The copy of the Hon'ble NCLT order dated 22-01-2025 which is a part of letter dated 24-01-2025 is attached in the trailing mail.

Thank you for your understanding and cooperation.

Warm Regards,
Ashish Singh
RP of Ferrous Infrastructure Private Limited
IP Reg. No: IBBI/IPA-002/IP-N00416/2017-2018/11230
AFA Valid Up to 31st December, 2025

IBBI Reg. Address: Flat No. 901, Tower -A, Cleo County,

Sector - 121, Noida, Uttar Pradesh ,201301

Correspondence Address: Unit No.156, 05th Floor, Tower - A,

The Corenthum, Sector – 62, Noida – 201301, India
Email: ip.ashishsingh@gmail.com, cirp.ferrousinfra@gmail.com

Mobile: +91 9312680896

[Quoted text hidden]

SHIP WITH MyDTDC

Annexure - A-6

Track Shipment

To track your consignment please enter DTDC tracking number (AWB or Reference Number)

(•) AWB/ CONSIGNMENT NUMBER ( ) REFERENCE NUMBER

V86706613

To track multiple consignment please enter any combination of up to 25 DTDC tracking numbers, separated by comma.

[ ] I am human hCaptcha Privacy - Terms

TRACK

TRACKING DETAILS : V86706613

Raise your Query

Reference No	Origin	Destination	Booked On
127651974867	GHAZIABAD, 201002	CHANDIGARH, 160018	Mon, 27th Jan'25 @8:24 PM

Softdata Upload

Mon, 27th Jan'25 @7:11 PM

Picked Up

SHIP WITH MyDTDC

Accepted
GHAZIABAD
Mon, 27th Jan'25 @8:24 PM

In Transit
CHANDIGARH
Wed, 29th Jan'25 @7:14 AM

At Destination
CHANDIGARH
Wed, 29th Jan'25 @12:01 PM

Delivered
CHANDIGARH
Wed, 29th Jan'25 @3:10 PM

Status

Delivered

Wed, 29th Jan'25 @3:10 PM
Received by -tarun kumar [SELF]
By: -FR-CHD - KANSAL
CHD - KANSAL, CHANDIGARH

BEWARE OF FRAUD CALLS. DTDC won't ask for any payment through OTP/UPI

Email : customersupport@dtdc.com

Annexure - A-7

Directorate of Town & Country Planning, Haryana

Nagar Yojana Bhavan, Plot no. 3, Sector-18 A, Madhya Marg, Chandigarh
Web site tcpharyana.gov.in - e-mail: tcpharyana7@gmail.com

Regd.

To

Sh. Vineet Rai, Deputy Official Liquidator,
Ministry of Corporate Affairs,
Official of Official Liquidator,
High Court of Delhi, 8th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110003.

Memo No. CC-3151-PA (SK)-2025/ 6120 Dated: 18/02/25

Subject: **Company Petition No. 39/2009 titled as Dinesh Mittal and Others V/s Triveni Infrastructure Development Company Ltd. alongwith other petitions no. 333 of 2010 titled as Sh. Sameer Sharma Vs M/s Triveni Infrastructure Development Company Ltd. alongwith other company applications no. 2375/2011, 1843/2013, 905/2016, 4542/2016, 4587/2016, 1113/2017, 1664/2017, 315/2018, 384/2019, 1082/2019, 659/2021, 749/2022, OLR 255/2017.**

Please refer to your memo no. OL/NBFC/514 dated 31.01.2025 on the subject cited matter.

The matter has been examined and I have been directed to provide the license wise detail which is as under:-

A. Licence no. 37-39 of 2007

As requested by applicant / Official Liquidator to give pro-rata share of fees / renewal fees, it is submitted that the licence no. 37-39 of 2007 is granted over an area measuring 37.344 acres for development of a Group Housing Colony in favour of TIDCO (under liquidation) and the entire project is the liability of TIDCO/ OL & there is no question of providing information on pro-rata basis. However, the information regarding outstanding dues / licence renewal fees for this licenced area is already provided vide memo dated 27.12.2024.

Accordingly, you are requested to apply for renewal of licence on LC-VI alongwith renewal fees & other requisite documents in compliance of previous renewal order.

B. Licence no. 34-36 of 2007

i. The Licence Nos. 34-36 of 2007 dated 23.01.2007 were granted to Triveni Ferrous Infrastructure Pvt. Ltd. (TFIPL) (now known as Maximal Infrastructure Pvt. Ltd.), Ferrous Alloys Forging Pvt. Ltd. and Sh. Sumit Mittal for development of a Group Housing Colony over an area measuring 48.038 acres falling in Sector 89, Faridabad. The licence was valid upto 22.01.2025.

ii. Due to various disputes between the promoters companies i.e. 1.) TFIPL (now MIPL) Mittal Group and 2.) FIPL/Seth Group, the Hon'ble Supreme Court of India vide order dated 24.04.2020 and 09.10.2020 passed in Contempt Petition (Civil) no. 34/2016 in Writ Petition (Crl.) no. 05 of 2015 titled as Ashish Seth V/s Sumit Mittal and Others directed Mittal Group / MIPL to obtain renewal of license granted by the DTCP in respect of the entire area of 48.03 acres. In compliance of the above said order, the request for renewal of license was made

by Mittal Group/ MIPL and the licence was renewed upto 22.01.2025 vide memo dated 01.03.2021 with certain terms and conditions.

iii. Also, in compliance of the aforesaid Apex Court order dated 24.04.2020 & 09.10.2020, the permission for assignment of Joint Development Rights & / or Marketing Rights under the policy dated 18.02.2015 was granted in favour of Ferrous Infrastructure Pvt. Ltd. (Seth Group, which is now under NCLT) vide this office memo dated 08.02.2022.

Further, in respect of the HRERA order dated 01.10.2019 in HRERA Complaint No. 826 of 2018 etc., the permission for assignment of Joint Development Rights & / or Marketing Rights under the policy dated 18.02.2015 have also been granted in favour of ORS and Heritage vide this office memo dated 07.03.2022. Though, the order dated 07.03.2022 were challenged by MIPL before Hon'ble High Court by filing writ petition No. 12971 of 2023 titled as Maximal Infrastructure Pvt. Ltd. V/s State of Haryana and others, the Hon'ble Court vide order dated 29.10.2024 uphled the order dated 07.03.2022 and as directed, MIPL is duty bound to perform its obligation as per the LC-IV agreement executed by it with the department and the terms and condition of the licence in question.

iv. Permission for assignment of Joint Development Rights & / or Marketing Rights under the policy dated 18.02.2015 has also been granted in favour of Parcela Real Estate Pvt. Ltd. on part licensed area vide memo dated 16.11.2023 on request of MIPL.

v. That in compliance of the order passed by Hon'ble Delhi High Court in the subjected Company Petition no. 39/2009, 333/2010 etc., the beneficial interest has been issued on the portion of Triveni Infrastructure Development Company Pvt. Ltd. in favour of TIDCO/OL & BSF vide memo dated 19.09.2024 & 08.05.2024 respectively.

vi. Further, it is pertinent to mention here that there is no policy for bifurcation of licence as on date & the permissions so granted for Joint Development Rights & / or Marketing Rights under the policy dated 18.02.2015 in favour of Co-Developer companies do not amount to bifurcation of the project. Accordingly, the sole responsibility for compliance of all the provisions of the Haryana Development and Regulations of Urban Areas Act, 1975 & Rules, 1976 and to abide by all the terms and conditions of licence and bilateral agreement shall remain with the developer company i.e. Maximal Infrastructure Pvt. Ltd.

In view of above, the total amount of outstanding renewal fees as on due date of applying for renewal of licence as prescribed under rule 13 for the entire area measuring 48.034 acres of licence no. 34-36 of 2007 alongwith renewal fees per acre for all the period of licence prescribed in the notification dated 03.11.2020 as under:-

23.01.2025 – 22.01.2026			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	76,000	36,32,648/-
Comm. Comp.	0.24	9,40,000	2,25,600/-

Total amount required as on 22.12.2024	38,58,248/-
Renewal fees per acre	80,317/-

23.01.2025 – 22.01.2027			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	1,33,000	63,57,134/-
Comm. Comp.	0.24	16,45,000	3,94,800/-
Total amount required as on 22.12.2024			67,51,934/-
Renewal fees per acre			1,40,554/-

23.01.2025 – 22.01.2028			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	1,71,000	81,73,458/-
Comm. Comp.	0.24	21,15,000	5,07,600/-
Total amount required as on 22.12.2024			86,81,058/-
Renewal fees per acre			1,80,712/-

23.01.2025 – 22.01.2029			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	2,28,000	1,08,97,944/-
Comm. Comp.	0.24	28,20,000	6,76,800/-
Total amount required as on 22.12.2024			1,15,74,744/-
Renewal fees per acre			2,40,950/-

23.01.2025 – 22.01.2030			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	2,28,000	1,08,97,944/-
Comm. Comp.	0.24	28,20,000	6,76,800/-
Total amount required as on 22.12.2024			1,15,74,744/-
Renewal fees per acre			2,40,950/-

Note:- The above amount is required to be deposited alongwith upto date interest with the licence renewal application on prescribed form LC-VI to be submitted by the main developer.

Further, it is informed that no request has been received from the MIPL for renewal of licence. The Department cannot provide the required renewal fees on the pro-data basis as the sole responsibility for getting the license renewed is of MIPL. Hence, you are requested to take up the matter with MIPL for renewal of license and compliance of statutory terms & condition of license as well as earlier renewal order dated 01.03.2021.

This is for your information please.

(Savita Jindal)
District Town Planner (HQ)
For: Director, Town & Country Planning
Haryana, Chandigarh

Annexure - A-8

FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>

Intimation for renewal of license no.34-36 of 2007

FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com> 4 March 2025 at 13:05
To: Infra Maximal group <infra@maximalgroup.net>

Dear Sir,

This is with reference to your letter regarding the renewal of License No. 34-36 of 2007, in which you requested the submission of various documents along with the payment for renewing the license. The letter indicates a total fee and charges amounting to Rs. 1,02,80,000/-. However, it has come to our attention that according to a letter issued by DTCP to the official liquidator in Company Petition No. 39/2009 and others, dated 18-02-2025 (copy of letter is attached herewith for your reference), the following details are mentioned on the last page (para B (vi)):

...the total amount of outstanding renewal fees as on due date of applying for renewal of licence as prescribed under rule 13 for the entire area measuring 48.034 acres of licence no. 34-36 of 2007 alongwith renewal fees per acre for all the period of licence prescribed in the notification dated 03.11.2020 as under: ....

23.01.2025 – 22.01.2030			
Comp.	**Area**	**Rate**	**Total**
GH Comp.	47.798	2,28000	1,08,97,944/-
Comm. Comp.	0.24	28,20,000	6,76,800/-
Total amount required as on 22.1.2024			1,15,74,744/-
Renewal fees per acre			2,40,950/-

Based on the above letter from DTCP to the official liquidator, we understand that the renewal fees for our share (14.80 acres) amounts to Rs. 35,66,060/- only.

Therefore, I kindly request clarification regarding the amount mentioned in your letter dated 21-12-2024, so that we can take the necessary steps accordingly.

Warm Regards,
Ashish Singh
RP of Ferrous Infrastructure Private Limited
IP Reg. No: IBBI/IPA-002/IP-N00416/2017-2018/11230
AFA Valid Up to 31st December, 2025

IBBI Reg. Address: Flat No. 901, Tower -A, Cleo County,

Sector - 121, Noida, Uttar Pradesh ,201301

Correspondence Address: Unit No.156, 05th Floor, Tower - A,

The Corenthum, Sector – 62, Noida – 201301, India
Email: ip.ashishsingh@gmail.com, cirp.ferrousinfra@gmail.com

Mobile: +91 9312680896

[Quoted text hidden]

Letter sent by DTCP to OL_CC-3151-letter dated 18.02.2025.pdf
1721K

Annexure - A-9

Gmail **FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>**

Intimation for renewal of license no.34-36 of 2007

Infra Maximal group <infra@maximalgroup.net> 6 March 2025 at 12:15
To: FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>
Cc: Maximal Infrastructure <infra@maximalgroup.net>

BY EMAIL

06.03.2025

To,

Ferrous Infrastructure Pvt. Ltd.

Regd. Address: B-22, Lower Ground Floor,

Jangpura Extension,

New Delhi -110014

Through;

Mr. Ashish Singh,

RP of Ferrous Infrastructure Pvt. Ltd.

SUB: REPLY TO MAIL DATED 4TH MARCH 2025 AND DATED 6TH MARCH 2025

REF: RENEWAL OF LC -810 / LICENCE NO. 34,35 & 36 OF 2007 GRANTED IN THE NAME OF TRIVENI FERROUS INFRASTRUCTURE PRIVATE LIMITED (TFIPL) (NOW KNOWN AS MAXIMAL INFRASTRUCTURE PVT. LTD.) AND OTHERS.

Sir,

This is to state that the licence No.34-36 of 2007 was renewed upto 22.01.2025 vide Memo No.LC-810-Vol-XJE(SK)-2021/4981 dated 01.03.2021 issued by the DTCP, Chandigarh. The said license had expired on 22.01.2025 and thus accordingly you are once again requested to deposit requisite fees for renewal of license, in accordance with law.

As per our previous letter, we had requested FERROUS to deposit following provisional amount;

1. On account of Renewal Licence Fee,
2. On account of Renewal of Sanctioned Plans/Map,
3. On account of Composition charges against non-allotment of EWS flats,
4. On account of hiring services of consultant.

As stated in our letter, all aforementioned figures were tentative and were subject to final calculation by DGTCP office. In light of the aforesaid fact and circumstances, our response to your mail dated

4th March 25 & 6th March 25 are as under;

S.No	Fee/Charges demanded on a/c of:	Our Response to your mail
1.	On account of Renewal Licence Fee; we had stated Rs. 30.00 Lacs to be paid.	As per the copy of the letter addressed to OL (shared by you), proportionate fee qua FERROU share is now stand computed to **Rs. 35,66,060/-**. Thus, you are requested to deposit the same directly with DGTCP and peruse the renewal of License directly.
2.	On account of Renewal of Sanctioned Plans/Map, we had stated Rs. 32.00 Lacs to be paid.	As per the copy of the letter addressed to OL (shared by you), DGTCP had not calculated Renewal of Sanctioned Plan/Map fee. Please note, Renewal of License and Renewal of Sanctioned Plan/Map are two different fee payable to DGTCP at the time of renewal of License. Thus, you are requested write a letter to DGCTP to get the same calculated proportionately qua FERROU share and accordingly deposit the same directly with DGTCP
3.	On account of Composition charges against non-allotment of EWS flats, we had stated Rs. 16.00 Lacs to be paid.	As per the copy of the letter addressed to OL (shared by you), DGTCP had not calculated Composition charges against non-allotment of EWS flats. Please note, Renewal of License, Renewal of Sanctioned Plan/Map and Composition charges against non-allotment of EWS flatsare three different fee payable to DGTCP at the time of renewal of License. Thus, you are requested write a letter to DGCTP to get the same calculated proportionately qua FERROU share and accordingly deposit the same directly with DGTCP
4.	On account of hiring services of consultant, we had stated Rs. 14.80 Lacs to be paid.	As now you are directly getting renewal of Licence in terms of the NCLT order, you are not needed to pay consultant fee to our appointed consultant. You can appoint any consultant of your choice directly who can help you or alternatively you can yourself directly get the renewal done.

5.	Submission of requisite documents for Renewal of Documents and renewal of Bank Guarantees equivalent to your share for next five years.	You are requested write a letter to DGCTP seeking requisite formalities/ documents need to be submitted proportionately qua FERROU share and accordingly deposit the same directly with DGTCP

Kindly submit above-mentioned details/amounts directly with DGTCP at the earliest in order to get the license renewed directly at your end. Please note we are/shall not be responsible for any delay in renewal of License as there are delay and breaches at your end.

We would appreciate your early response and compliance.

For Maximal Infrastructure Pvt Ltd

--sd--

Director / Auth. Signatory

[Quoted text hidden]

Annexure - A-10

Gmail **FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>**

Regarding claim filed in the MATTER OF FERROUS INFRASTRUTURE PRIVATE LIMITED

Trideep Sharma <lp.ts.hqtcp@gmail.com> 6 March 2025 at 15:10
To: FERROUS INFRASTRUCTURE PRIVATE LIMITED- IN CIRP <cirp.ferrousinfra@gmail.com>
Cc: Legal Cell <da6.hq.tcp@gmail.com>, Suraj Katyal <pa.hqsk70.tcp@gmail.com>

Respected Sir,

This email pertains to the Interventional application filed on behalf of the Resolution Professional in CP(IB) No. 20/2020 in case titled as Leena Batra versus Ferrous Infrastructure Pvt. Ltd., against Department of Town and Country Planning Haryana wherein the prayer has been sought from the Adjudicating Authority w.r.t. pass the directions to the department to not to terminate, suspend licence bearing no. 34,35 and 36 dated 2007 issued on 01.03.2021.

As the same has been disposed by the Adjudicating Authority vide order dated 21.01.2025 issuing the direction to the applicant to approach the department for appropriate reliefs, it is therefore, pertinent to mention certain material facts of the case as follows:

1. That the department has granted permissions for assignment of Joint Development Rights & marketing rights under the department policy dated 18.02.20215 in fa our of Ferrous Infrastructure Pvt. Ltd. (Corporate Debtor) in compliance of the Hon'ble Supreme Court order dated 24.04.2020 & 09.10.2020 on the part of licenced area.

2. Further, the permissions so granted for Joint Development Rights & Marketing Rights under the policy dated 18.02.2015 do not amount to bifurcation of the project and the sole responsibility for compliance of all the provisions of the Haryana Development and Regulations of Urban Areas Act 1975 and Rules 1976 and to abide by all the terms and conditions of licence and bilateral agreement is of the main developer company i.e. Maximal Infrastructure Pvt. Ltd.

3. The above view as mentioned was also considered by the Hon'ble Punjab and Haryana High Court while deciding the Writ Petition no. 12971 of 2023 titled as Maximal Infrastructure Pvt. Ltd. Versus State of Haryana and others vide order dated 29.10.2024.

4. That all said, it thus, pertinent to mention that as per the order dated 29.10.2024 passed by the Hon'ble High Court of Punjab and Haryana the main developer is bound to perform its obligations as per licence conditions as well as bilateral agreement and C.D. may be asked to correspond with "MIPL" as the main developer (Maximal Infrastructure Pvt. Ltd.) is not before NCLT and the aforesaid licence bearing no. 34,35 and 36 of 2007 stands in the name of the Maminal Infrastructure Pvt. Ltd. only and not in the name of the C.D. (As they have only been granted "JDR").

Regards,
Trideep Sharma
Law Officer, Town and Country Planning, Haryana.

DEPARTMENT OF TOWN & COUNTRY PLANNING

GOVERNMENT OF HARYANA

[Quoted text hidden]

Court order dated 29.10.2024.pdf
495K

Annexure - A-11 2024:PHHC:142422-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) CWP-12971-2023 (O&M)

M/s Maximal Infrastructure Pvt. Ltd. ..... Petitioner

Versus

State of Haryana and others ..... Respondents

(ii) CWP-19954-2022 (O&M)

Akhil Mahajan ..... Petitioner

Versus

State of Haryana and others ..... Respondents

Reserved on : 31.07.2024
Pronounced on : 29.10.2024

CORAM : HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

***

Present : Mr. Chetan Mittal, Sr. Advocate with
Mr. Anand Chhibber, Sr. Advocate,
Mr. Amit Jhanji, Sr. Advocate with
Mr. Kunal Mulwani, Advocate;
Ms. Eliza Gupta, Advocate;
Mr. Deepak Aggarwal, Advocate;
Mr. Udit Garg, Advocate;
Ms. Sehej Sandhawalia, Advocate;
Ms. Ateevraj Sandhu, Advocate;
Mr. Ritvik Garg, Advocate,
Mr. Utkarsh Khatana, Advocate
Mr. Anhad Batta, Advocate and
Ms. Shifali Goyal, Advocate

for the petitioner in CWP No.12971-2023.

Sh. Akhil Mahajan petitioner in CWP No.19954 of 2022 and respondent No.5 in CWP No.12971 of 2023 in person with Dr. Anju Sharma, Advocate-Legal Aid Counsel.

Mr. Ankur Mittal, Addl. A.G. Haryana;
Mr. Pardeep Chahar, Sr. DAG, Haryana;
Mr. Saurabh Mago, DAG, Haryana;
Mr. Karan Jindal, AAG, Haryana;
Ms. Kushaldeep Kaur, Advocate and
Ms. Saanvi Singla, Advocate.

Mr. Aashish Chopra, Sr. Advocate with
Mr. Sourabh Goel, Advocate
Ms. Mehar Nagpal, Advocate
Ms. Geetika Sharma, Advocate and
Mr. Shivani Sahni, Advocate
for respondents No.3 and 4.

***

VIKRAM AGGARWAL, J

1. This judgment shall dispose of the aforesaid two writ petitions for the issue arising in both writ petitions is the same. The facts are being derived from CWP No.12971 of 2023.

The petitioner has prayed for the following substantive relief:-

"Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of Writ in the nature of Certiorari for setting aside the impugned orders dated 25.05.2023 (Annexure P/48) passed by respondent no.2 whereby the impugned orders dated 09.12.2021/10.12.2021 (Annexure P-29) and order dated 07.03.2022 (Annexure P-33 & Annexure P-34) have been illegally, erroneously and arbitrarily upheld inter-alia on the ground that the petitioner had withdrawn its writ petition bearing CWP No.4383 of 2022 and CWP No.5386 of 2022 in

bonafide belief based on the statement made by the counsel for official respondent that the Respondent No.2 shall be considering the matter afresh after giving due opportunity of hearing, however, a non-speaking order keeping intact the previous orders dated 07.03.2022 (Annexure P-33 & Annexure P-34) and 09.12.2021/10.12.2021 (Annexure P-29), has been passed without considering the true facts and circumstances, and further on the ground that the same has been passed without considering the genuine grievances of the petitioner.

AND

Further, for issuance of Writ in the nature of Certiorari for setting aside the impugned orders dated 07.03.2022 (Annexure P/33 and Annexure P/34) passed by Respondent no.2 whereby, the request of Respondent No.3 and 4 for the change in beneficial interest/assignment of joint development and marketing rights has been approved, inter-alia on the ground being illegal, and further, arbitrary conditions have been imposed on the petitioner, without appreciating the true facts and circumstances of the case. Further, that the conditions so imposed upon the petitioner vide impugned order dated 07.03.2022 (Annexure P-33 & Annexure P-34) are itself contrary to the conditions laid down for the in-principle approval vide letter dated 10.12.2021 (Annexure P-35 & Annexure P-36), furthermore that the Respondent No.2 had illegally waived off the mandatory requirement of NOC for

change in beneficial interest from the owner/licensee, petitioner herein, in contravention to policy dated 18.02.20215 (Annexure P-6) vide order dated 09.12.2021/10.12.2021 (Annexure P-29) which has been upheld in appeal vide order dated 21.02.2022 (Annexure P-31) and has illegally imposed entire responsibility on the petitioner vide the impugned order dated 07.03.2022 (Annexure P-33 & Annexure P-34), thereby causing illegal benefit to the Respondents No.3 & 4 without any responsibility/liability, and as the entire liability has been fasten on the petitioner without any right or even without the concurrent/consent, further the impugned order dated 07.03.2022 (Annexure P-33 & Annexure P-34) being prejudicial to the interest of the petitioner and giving undue benefit to the Respondent No.3 & 4, further that the impugned order dated 07.03.2022 (Annexure P-33 & Annexure P-34) illegally imposes a vicarious liability on the petitioner, without there being any provision in law for the same and also being in violation of principles of natural justice and further that the impugned order has been passed in pursuance to the order dated 09.12.2021/10.12.2021 (Annexure P-29) passed by Respondent No.2 which has been upheld in appeal vide order dated 21.02.2022 (Annexure P-31), which has now been upheld by the impugned order dated 25.05.2023 (Annexure P/48),

AND

Further, for issuance of Writ in the nature of Certiorari for

setting aside the impugned order dated 21.02.2022 (Annexure P/31) passed by Respondent no.1 whereby appeal filed by petitioner under Section 19 of the Haryana Development and Regulation of Urban Areas Act, 1975, against the order dated 09.12.2021/10.12.2021 (Annexure P/29) passed by the Respondent No.2, has been dismissed by Respondent no.1, inter-alia on the ground that while passing the impugned order dated 21.02.2022 (Annexure P/31) and Respondent No.1, without appreciating the true and correct intent of the orders dated 24.04.2022 (Annexure P-24) and 09.10.2020 (Annexure P-25) passed by the Hon'ble Supreme Court in Contempt Petition No.34/2016 in WP (Crl) no.5/2015 titled as "Ashish Seth Vs. Sumit Mittal & Others," and misread and misconstrued the same, further the Respondent exceeded the jurisdiction vested with him and assumed the jurisdiction vested with the Civil Court, and further failed to abide by the mandatory provisions of the policy dated 18.02.20215 (Annexure P/6), so promulgated by the Respondent No.2 Department itself and further that the order has been passed without appreciating the true facts and circumstances of the case, in violation of the principles of natural justice, being illegal arbitrary and against the provisions of law.

AND

Further, writ in the nature of Mandamus restraining official respondents from giving effect to the application of private

respondent no.2 and 3 for change in beneficial interest and joint development rights.

AND

Further, for the issuance of the Writ in the nature of mandamus calling the entire records of the office of the Respondent No.2, after passing of the order dated 12.12.2022 (Annexure P-43 & Annexure P-44), whereby the writ petitions bearing No.CWP 4383 of 2022 and CWP 5386 of 2022 were withdrawn."

Once again, the dispute is between a Colonizer-Builder-Promoter and hapless and helpless allottees. The petitioner is aggrieved basically by the decision taken by the official respondents in permitting the transfer of beneficial interest to the third and fourth respondents whereas the allottees are aggrieved of they having invested their life savings, being desirous of having a roof over their heads but not having been given the possession of the flats for which they had spent their entire life savings.

FACTUAL MATRIX

2. The facts, as emanating from the writ petition and as projected by the petitioner, are that the petitioner (M/s Maximal Infrastructure Private Limited) previously known as M/s Triveni Ferrous Infrastructure Private Limited (TFIPL) alongwith others namely M/s Sumit Mittal and M/s Ferrous Alloys Forgings Pvt. Ltd. were granted licences No.34, 35 and 36 of 2007 **(Annexure P-1)** for the development of a Group housing colony over an area measuring 48.038 acres in Sector 89, Faridabad in terms of the provisions of

the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as 'the 1975 Act').

3. Having obtained the licences, the petitioner-licencee entered into further agreements **(Annexures P-2 and P-3)** with respondents No.3 and 4 namely M/s Heritage Cottages Pvt. Ltd. & M/s ORS Infrastructure Pvt. Ltd. on 18.02.2008 and 01.09.2008 respectively vide which the development and marketing rights for the purpose of construction of the group housing colony were transferred to respondents No.3 and 4. Power of attorneys dated 28.04.2008 and 01.09.2008 **(Annexures P-4 and P-5)** were also executed in favour of respondents No.3 and 4 respectively.

4. The department of Town & Country Planning, Haryana -respondent No.2 (for short 'DTCP, Haryana') (hereinafter referred to as 'the respondent-DTCP, Haryana came out with a policy dated 18.02.2015 regarding change in 'beneficial interest'. The detailed procedure for allowing change in benefical interest viz. change in developer; assignment of joint development rights and/or marketing rights etc. in a licence granted under the 1975 Act was laid down in the said policy. It is the case of the petitioner that change of 'beneficial interest' in favour of respondents No.3 and 4 could have only been approved after complying with the mandatory terms and conditions of the said policy. It is the further case of the petitioner that as per the Policy of 2015 (hereinafter referred to as 'the 2015 Policy'), a fresh agreement LC-IV and bilateral agreement were to be executed on behalf of the new entity and the LC-IV bilateral agreement, proforma of which has been annexed as **Annexure P-7**, could have been executed only by the owner of the land. The petitioner maintains that respondents No.3 and 4 are not the owners of the

land as the title was never transferred in their favour and no fresh agreement was executed as per the mandate of the Policy. The petitioner also maintains that infact even the previous agreements had been suspended/terminated in 2016 and the same had never been challenged by respondents No.3 and 4.

5. Several disputes are stated to have arisen amongst the petitioner and respondents No.3 and 4 on account of which, as per the petitioner, the development agreements and general power of attorneys executed in favour of respondents No.3 and 4 were terminated/cancelled. Reference has been made to the termination clauses in the concerned agreements. The cancellation/suspension deeds qua respondents No.3 and 4 have also been placed on record as **Annexures P-8 and P-9** respectively. Certain communications/notices dated 21.04.2016 **(Annexures P-10 and P-11)** were also issued by the petitioner. The petitioner also maintains that the cancellation of the agreements and GPAs was also notified to the general public by way of public notice dated 17.06.2016 **(Annexure P-12)** and to respondent No.1 vide letters dated 20.06.2016 **(Annexures P-13 and P-14)** and due notice of the same had been taken by respondent No.1 on 04.07.2016 vide communication **Annexure P-15**. While suspending the agreements and the GPAs, the petitioner claims to have issued a cheque dated 08.06.2016 amounting to Rs.26,56,99,525/- to respondent No.4 and cheque dated 08.06.2016 amounting to Rs.9,20,31,356/- to respondent No.3. However, neither respondent No.3 nor respondent No.4 got the cheques encashed.

6. It has been averred in the petition that M/s Triveni Ferrous Infrastructure Private Limited was a joint venture company consisting of two groups i.e. Seth Group and Mittal Group. On account of certain disputes

having arisen, various litigations arose including writ petition (Criminal) No.5/2015 and Writ Petition (Criminal) No.11/2015 in the Supreme Court of India. The matter was eventually referred for mediation. A Memorandum of Settlement was executed between the Seth Group, Mittal Group and M/s Triveni Ferrous Infrastructure Private Limite. The said memorandum of settlement was produced before the Supreme Court of India in pursuance of which order dated 05.05.2015 **(Annexure P-16)** was passed vide which the writ petitions were disposed of in terms of the memorandum of settlement. Respondents No.3 and 4 were, however, not parties to those proceedings.

7. Respondents No.3 and 4 moved applications dated 30.10.2015 for independent development rights under the 2015 Policy. However, the said applications were rejected vide orders dated 13.10.2016 **(Annexures P-17 and P-18),** passed by the DTCP, Haryana. Aggrieved by the rejection of the applications, respondents No.3 preferred CWP No.13603 of 2018 titled as M/s Heritage Cottages Private Limited versus State of Haryana and others and respondent No.4 filed CWP No.13583 of 2018 titled as M/s ORS Infrastructure Private Limited Versus State of Haryana and others. However, both the writ petitions were withdrawn vide orders dated 28.05.2018 **(Annexures P-19 & P-20)** after having been granted liberty to avail alternate remedies. It is the case of the petitioner that no alternate remedy was even thereafter availed by respondents No.3 and 4 which has duly been noticed by a Coordinate Bench of this Court in CWP No.4383 of 2022 titled as M/s Maximal Infrastructure Private Limited Versus State of Haryana and others.

8. Interlocutory applications bearing No.17250/2016 and 17249 of 2016 **(Annexures P-21 and P-22)** were also moved by respondents No.3 and

4 before the Supreme Court of India seeking clarification of the order dated 05.05.2015 taking a stand that the said order was not applicable to them. The Supreme Court of India ordered on 17.11.20107 **(Annexure P-23)** that it would hear only the parties to the settlement and the learned counsel for the Government and hence did not entertain the aforesaid applications.

9. On account of non-implementation of the terms and conditions of the memorandum of settlement and order dated 05.05.2015, the Mittal Group and the Seth Group filed contempt petitions before the Supreme Court of India wherein certain directions were issued by the Apex Court on 24.04.2020 **(Annexure P-24).** Further, vide order dated 09.10.2020 **(Annexure P-25)**, the Supreme Court of India directed the Mittal Group (including the petitioner) and Seth Group to pay half-half share each of respondents No.3 and 4 and EDC liability.

10. In the meanwhile, respondents No.3 and 4 filed a complaint against the petitioner before the Haryana Real Estate Regulatory Authority, Panchkula (for short 'HRERA'). Vide order dated 01.10.2009 **(Annexure P-26)**, certain directions were issued by HRERA to the respondent-Department to divide the licence of the petitioner in five parts and determine the liabilities of each party towards them individually and separately. Despite being parties, respondents No.3 and 4 did not challenge the order dated 01.10.2019 meaning thereby that they admitted their liability qua payment of EDC to the petitioner. The official respondents, however, challenged the said order before the Appellate Tribunal vide Appeal No.1461 of 2019 which was adjourned on account of the pendency of the cases before the Supreme Court of India. Vide order dated 24.04.2024, the said appeal was rendered

infructuous. The petitioner had also challenged the said order before the Tribunal but the same was withdrawn. After the decision of the Supreme Court of India, respondents No.3 and 4 again submitted letters dated 27.07.2021 **(Annexures P-27 and P-28)** requesting for change of 'beneficial interest' in their favour in terms of the 2015 Policy. It is the case of the petitioner that false averments were made while moving the said applications, the details of which have been specified in the writ petition.

11. Respondent No.2 granted in-principle approval of change of 'beneficial interest' to respondents No.3 and 4 vide order dated 09.12.2021/10.12.2021 **(Annexure P-29)**. It has been averred that aggrieved by the same, an appeal (Annexure P-30) was preferred by the petitioner in terms of the provisions of Section 19 of the 1975 Act which was, however, hurriedly dismissed vide order dated 21.02.2022 **(Annexure P-31)**. This led to the filing of CWP No.4383 of 2022. While issuing notice of motion in the said case, the Coordinate Bench of this Court restrained respondents No.3 and 4 (herein) from creating third party interest vide order dated 07.03.2022 **(Annexure P-32)**.

12. Despite being represented before the Coordinate Bench in the aforesaid writ petition, respondent No.2 allowed the applications/request of respondents No.3 and 4 vide orders dated 07.03.2022 **(Annexures P-33 and P-34)** itself for change in 'beneficial interest'/assignment of joint development & marketing rights though certain terms and conditions were imposed upon the petitioner-Company which, according to the petitioner-Company, are illegal and arbitrary. The conditions were imposed vide memos **(Annexures P-35 and P-36).**

13. It is further the case of the petitioner that respondents No.3 and 4 issued public notices dated 24.12.2021 **(Annexure P-37)** in the newspaper inviting objections to the transfer of 'beneficial interest' to which the petitioner filed objections **(Annexures P-38 and P-39)** on 12.01.2022. The petitioner also preferred CWP No.5386 of 2022 titled as M/s Maximal Infrastructure Private Limited Versus Director, Town & Country Planning Haryana which, vide order dated 17.03.2022 **(Annexure P-40)** was ordered to be heard alongwith CWP No.4383 of 2022. Both these writ petitions were taken up on various dates. However, on 28.04.2022, a statement was given by counsel representing respondents No.3 and 4 which was recorded in the order **(Annexure P-41)**. Eventually, these writ petitions were taken up for hearing on 12.12.2022 when counsel representing the HERERA submitted a communication dated 09.12.2022 stating that respondent No.2 would reconsider the entire issue afresh after affording an opportunity of hearing to the petitioner as a result of which, the petitioner, without doubting the intentions of the official respondents withdrew both writ petitions vide **Annexures P-43 and P-44.**

14. However, after hearing all concerned, the matter was reserved but since no orders had been passed, miscellaneous applications were made on 16.03.2023 seeking recalling of the order dated 12.12.2022. During the proceedings, order dated 25.05.2023 **(Annexure P-48)** having been passed by the respondent-DTCP, Haryana, was produced vide which the orders dated 09.12.2021/10.12.2021 and 07.03.2022 were upheld. Liberty was, therefore, granted by the Division Bench to the petitioner vide order dated 26.05.2023 **(Annexure P-48-A)** to challenge the order dated 25.05.2023 in accordance

with law leading to the filing of the instant writ petition.

15. Certain orders passed by the Supreme Court of India on 25.01.2022 and 11.02.2022 **(Annexures P-49 and P-50)** have also been referred to and reference has also been made as regards two civil suits having been filed by the petitioner for permanent and mandatory injunction bearing CS No.1338 of 2018 titled as Maximal Infrastructure Private Limited Versus M/s Heritage Cottages Private Limited and CS No.1339 of 2018 titled as M/s Maximal Infrastructure Private Limited versus M/s ORS Infrastructure Private Limited and others **(Annexures P-51 and P-52 respectively)** in the Court of the District Judge (South East), Saket, New Delhi for recovery of licence renewal charges and proportionate miscellaneous charges.

REPLY

16. The writ petition has been opposed by the respondents. Respondents No.1 and 2 have filed their written statement so have respondents No.3 and 4. Respondent No.5 Akhil Mahajan has also filed a separate reply by way of his affidavit. Respondents No.1 and 2 have given facts of the case which according to them are the true facts. It has been averred that licence Nos.34, 35 and 36 of 2007 were granted to M/s Triveni Ferrous Infrastructure Private Limited (now named as Maximal Infrastructure Private Limited i.e. the petitioner), Ferrous Alloys Forging Pvt. Ltd. (for short 'FAFPL') and one Sh. Sumit Mittal for development of a group housing colony over an area measuring 48.038 acres falling in Sector 89, Faridabad. Building plans were approved vide letter dated 29.02.2008. The compliance of the terms and conditions of the licence and agreement executed on LC-IV (form) and the bilateral agreement between the licencee and the Director,

Town and Country Planning including the development of Colony till completion of the project was to be made by the licencee i.e. the petitioner. However, vide different agreements executed in 2008, the petitioner, without seeking prior permission of the department transferred the development and marketing rights of the project to five different companies namely Triveni Infrastructure Development Company Pvt. Ltd.(TIDCO), Ferrous Infrastructure Pvt. Ltd. (FIPL), Pal Infrastructure & Developers Pvt. Ltd., Heritage Cottages Pvt. Ltd. (respondent No.3) and ORS Infrastructure Pvt. Ltd. (respondent No.4). It is the case of respondents No.1 and 2 that in view of the conditions of the licence issued to the petitioner as also the conditions of LC-IV/bilateral agreement, the petitioner could not have transferred the development rights to any other entity without the permission of the department. It has been averred that as per the zoning plan **(Annexure R-1)** of the licenced Colony, the site could not have been sub-divided or fragmented in any manner whatsoever.

17. The 2015 Policy was introduced for allowing change in 'beneficial interest' prior to which the creation of third party 'beneficial interest' viz. change in developer etc. was not allowed. The purpose of introducing the 2015 Policy was the changing marketing dynamics as many requests were being received by the department for either 'change in developer' or 'Assignment of Joint Development rights' and/or marketing rights, wherein the transfer of licence/change in land-schedule was not involved. It was observed that since change in land schedule of the licence was not involved meaning thereby it would not amount to a transfer of licence under Rule 17 of the 1976 Rules, the Policy was introduced. Section 3 (D) was also

introduced in the 1975 Act vide notification dated 03.04.2017 which laid down a provision for change in 'beneficial interest'. It is the case of respondents No.1 and 2 that the petitioner had created third party 'beneficial interest' in 2008 itself without seeking any prior permission from the competent authority and much prior to the introduction of the 2015 Policy and had, thus, violated the terms and conditions of the licence as well as the LC-IV Bilateral agreement.

18. It has also been averred that out of the five companies to whom the beneficial interest had been transferred, TIDCO is under litigation whereas Pal Infrastructure & Developers Pvt. Ltd. is under Corporate Insolvency Resolution Process (CIRP). These companies and the petitioner have filed various litigations. In the written statement, all subsequent proceedings as have been mentioned in the writ petition viz. the proceedings before the Supreme Court of India, HRERA and the official respondents have been referred to, which need not be repeated. The orders passed by the respondents have been averred as having been rightly passed. In the written statement filed by respondents No.3 and 4, also a similar stand has been taken. It has, however, been submitted that the agreements-GPAs had never been cancelled/revoked.

19. Respondent No.5, who is also an allottee has raised his own concerns as regards the alleged illegalities committed by the petitioner.

REPLICATION

20. Replications to the written statements were filed denying the averments made in the written statements and reiterating the averments those made in the writ petition.

21. Learned counsel for the parties were heard.

ARGUMENTS (PETITIONERS)

22. Learned Senior Counsel representing the petitioners submitted that the impugned orders dated 25.05.2023, 09.12.2021/10.12.2021 and 07.03.2022 are not sustainable and deserve to be set aside.

23. The primary argument which was raised was that the bifurcation of the licences was not permissible under the provisions of the 1975 Act. It was submitted that the authorities had inter-mingled the concept of change of 'beneficial interest' and bifurcation of licence.

24. Reference was made to the 2015 Policy wherein the concept of change in 'beneficial interest' was introduced and the procedure for effecting the said change in 'beneficial interest' was laid down.

25. Referring to the order dated 01.10.20219 passed by the HRERA in complaints filed by M/s Ferrous Infrastructure Private Limited, the petitioner i.e. Maximal infrastructure Private Limited, respondents No.3 and 4 namely M/s Heritage Cottages Private Limited and M/s ORS Infrastructure Private Limited and other parties, it was submitted that the respondents had complied with only selective directions as per its suitability and, therefore, there was violation of the directions issued by the said Authority. It was submitted that the Authority, while issuing directions, clearly held that the DTCP, Haryana must divide the licence in five parts and determine the liabilities of each party towards them individually and separately. Learned Senior Counsel submitted that this part of the directions was not complied with.

26. Reference was then made to the order dated 24.04.2020 passed by the Apex Court in which while referring to the order dated 01.10.2019 passed

by HRERA, it was held that the contempt petitions had been rendered infructuous. The EDC liability was divided into two parts i.e. the EDC payable against 33.238 acres which included the projects of four developers and EDC payable against 14.80 acres which was payable by TIDCO (Company under liquidation). The Supreme Court of India then passed certain directions as regards payment of EDC inter-se the Seth Group and the Mittal Group. The contempt petitions were accordingly dismissed by the Supreme Court of India.

27. Learned Senior Counsel took us through the various orders passed from time to time in various proceedings which were carried out, the details of which, to some extent have been given while detailing the facts and shall also be referred when the matter is analyzed and, therefore, we do not feel the necessity to refer to all those orders in detail again.

28. As regards the impugned order dated 09.12.2021/10.12.2021, it was submitted that both the Seth Group and the Mittal Group had been recognized by the Supreme Court of India but as regards respondents No.3 and 4, no recognition was given by the Supreme Court of India. Reference was made to the order dated 17.11.2017 passed by the Supreme Court of India wherein it had been observed that only the concerned parties i.e. the Seth Group, the Mittal Group and the State would be heard. Reference was also made to the order dated 24.01.2024 passed by the Supreme Court of India vide which the applications for impleadment and clarification moved by respondents No.3 and 4 were dismissed.

29. As regards the impugned order dated 21.02.2022, it was submitted that as per the 2015 Policy, NOC from the original licencee/owner was

mandatory and a fresh LC-IV Form had to be executed between the DTCP and the existing owner. Still further in terms of Clause 4.1 (iv) of the 2015 Policy, a registered collaboration agreement was to be executed between the owner and the developer. Learned counsel submitted that none of these conditions was satisfied and, therefore, the order is not sustainable. It was submitted that reliance was wrongly placed upon the order dated 01.10.2019, passed by HRERA and that as has been submitted earlier also, the said order passed by HRERA had to be complied with in totality and not selectively. Learned Senior Counsel also submitted that the observations that the consent of the present petitioner was not required in view of the order of HRERA and that GPA could not have been terminated unilaterally in view of the provisions of Section 202 of the Indian Contract Act, 1872 are not sustainable as the Appellate Authority did not have the jurisdiction to decide these issues especially the issue of cancellation of agreement as the same was required to be decided by the Civil Court of competent jurisdiction.

30. Assailing the order dated 07.03.2022, the arguments as regards the NOC, fresh LC-IV Form and registered collaboration agreement were reiterated, it was submitted that the order is not well reasoned and had been passed in collusion and in connivance with respondents No.3 and 4.

31. Adverting to the order dated 25.05.2023, passed by the respondent-DTCP, Haryana, it was submitted that no fresh findings were recorded by the Authority and the petitioner had withdrawn the writ petitions without doubting the intentions of the official respondents and a bare perusal of the order would show that it was merely a reiteration of the previous order.

32. It was submitted that in view of the aforesaid, the impugned orders

were not sustainable. In support of their contentions, reliance was placed upon the judgments of Hon'ble Supreme Court of India in ***DLF Universal Limited and another versus Director, Town and Country Planning Department, Haryana and others 2010 (14) Supreme Court Cases 1, Abdul Kuddus versus Union of India and others (2019) 6 Supreme Court Cases 604, The State of Haryana and another versus M/s Landmark Apartments Pvt. Ltd. & Anr. In SLP No.21573 of 2019, dated 13.09.2019, State of Madhya Pradesh versus Syed Qamarali 1967 SLR 228; M.C.Mehta versus Union of India and others (2021) 20 Supreme Court Cases 465; T.Vijayalakshmi and others versus Town Planning Member and another (2006) 8 Supreme Court Cases 502; Chairman, Indore Vikas Pradhikaran versus Pure Industrial Coke & Chemicals Ltd. And others (2007) 8 Supreme Court Cases 705; Commissioner of Income Tax Vs. Balbir Singh Maini (2018) 12 Supreme Court Cases 354; Ghanshyam versus Yogendra Rathi (2023) 7 Supreme Court Cases 361; Suraj Lamp and Industrial Private Limited versus State of Haryana and another (2012) 1 Supreme Court Cases 656; Dilshad Alvi versus Sri Ikrar Ahmed 2015 SCC Online UTT 1293; Shakeel Ahmed versus Syed Akhlaq Hussain 2023 SCC Online SC 1526, Barses J.A.D'Douza versus Municipal Corporation of Gr. Brihan Mumbai 2003 (4) Mh.L.J., the judgment of Calcutta High Court in Ashok Kumar Jaiswal and others versus Ashim Kumar Kar and others 2014 (2) MWN (Civil) 673, Krishnadevi Malchand Kamathia and others versus Bombay Environmental Action Group and others (2011) 3 Supreme Court Cases 363 and the judgments of Delhi High Court in Mic Electronics Ltd. & Anr. Versus Municipal Corporation of Delhi & Anr. (2011) 1 Arb LR 418***

(DB), Rajasthan Breweries Limited versus The Stroh Brewery Company 2000 (55) DRJ (DB).

33. Learned counsel has also placed reliance upon the ***order dated 10.05.2019***, passed by a Division Bench of this Court in ***CWP No.24568 of 2018*** titled as ***M/s Landmark Apartments Pvt. Ltd. Vs. State of Haryana & Ors.*** and the ***order dated 04.02.2019***, passed by the ***Haryana Real Estate Appellate Tribunal, Chandigarh*** in ***Appeal No.69 of 2018*** titled as ***Director, Town & Country Planning, Haryana versus Haryana Real Estate Regulatory Authority and another***.

ARGUMENTS (RESPONDENTS)

34. Sh. Ankur Mittal, learned Addl. Advocate General, Haryana, at the outset, submitted that on account of the pecuniary interests and clash between the parties, the interest of the allottees has suffered and it was the interest of the allottees that led the DTCP, Haryana to pass the impugned order which has been upheld by the Appellate Authority.

35. Referring first to the statutory provisions i.e. the provisions of the 1975 Act which is the governing statute as regards the current dispute, it was submitted that the same does not provide or recognize any event in the name of bifurcation of licence and that the only legally permissible act/action is the change in the 'beneficial interest' as provided for by the 2015 Policy. It was submitted that the change in the 'beneficial interest' was also on certain terms and conditions laid down in the 2015 Policy which, as per Sh. Ankur Mittal, learned Addl. Advocate General, Haryana provided for three things namely change of developer (for the entire lienced area), assignment of joint

development rights/marketing rights and change in shareholding pattern beyond 25% of share holding existing at the time of grant of licence.

36. Reference was made to various Clauses of the 2015 Policy and it was submitted that approval of service plans for sewerage, electricity, water would always remain with the licencee. The responsibility of obtaining the occupation certificate would also be of the original licencee so would be the responsibility to obtain completion certificate. Reference was made to Clauses 4.1 (ix) & (xi) of the 2015 Policy wherein it has been recorded that an undertaking would be furnished that all the liabilities of the existing developer shall be owned by the new entity and that notwithstanding the assignment of joint development rights/marketing rights to a third party, the developer would continue to be solely responsible for compliance of the provisions of the Act/Rules as also the terms and conditions of the licence.

37. It was submitted that the transfer of development rights to five companies/entities by the original licencees was without permission of the competent authority which, infact, was the root cause of all disputes and problems. It was submitted that had the development rights not been transferred at that stage without the permission of the authorities, such complications would not have arisen.

38. Reference was then made to the litigation before the Supreme Court of India between the Mittal Group and the Seth Group. It was submitted that though the word 'bifurcation' had been used by the Supreme Court of India, it was essentially a change of developer and that factually it was never bifurcation and was only a change in the 'beneficial interest'. It was submitted that the impugned orders are required to be tested in this

background.

39. It was submitted that the agreements executed in favour of five companies/entities without the permission of the official respondents was clearly in violation of the terms and conditions of the licence. It was submitted that under the circumstances it cannot be submitted that a bilateral agreement between the parties cannot be interfered with. It was submitted that the illegality had been committed not only by the original licencee/developer but equally by the other five entities including respondents No.3 and 4 and it is on account of this that the interests of the home buyers have suffered.

40. Learned counsel submitted that keeping in view the violations of the terms and conditions of the licence and other statutory conditions, the question which would arise before this Court would be whether the DTCP, Haryana was to remain only a mute spectator or did he have some powers under the Act to do away with the conditions of NOC to ensure the vindication of the rights of the home buyers.

41. Reference was made to the provisions of Section 3, Section 8 and other provisions of the 1975 Act. Emphasis was laid on the role of the Director and it was submitted that the competent authority was the Director. It was submitted that the powers under Section 3 D of the 1975 Act were much wider than the powers under the 2015 Policy. Reference was also made to Section 10 of the 1975 Act which lays down the penalties. It was submitted that under the scheme of the Act, the Director cannot be expected to be a mute spectator. It was further submitted that under the scheme of the Act, the colonizer also has certain obligations and that the liabilities of the

petitioner would remain in so far as essential services are **c**oncerned.

42. Learned counsel then referred to the impugned orders and read them in extenso and supported the said orders. It was submitted that though the HRERA had wrongly stated about sub-division of the licence, there was actually no sub-division of the licence. It was submitted that it was subsequent to the order passed by HRERA that requests were received by the DTCP, Haryana and under the circumstances the impugned order was passed.

43. It was submitted that the argument that since it was a bilateral issue between the licencee and five other builders, the Director would have no jurisdiction to interfere is devoid of merit and it was submitted that the Director duly had the power to deal with the issue. It was submitted that the term bilateral would mean the issue between the director and the allottees and not between the five other entities.

44. Reference was also made to the order passed by the Delhi High Court and the same was supported. However, it was stated that apart from what had been held by the Delhi High Court, it should also have been held that essential services would be the responsibility of the licencee.

45. It was submitted that the impugned orders are being assailed only on account of the clash of interest and pecuniary interests of the companies which, in any case, would be subservient to the interests of the home buyers.

46. Reliance was placed upon the judgments of Hon'ble Supreme Court in ***DLF Universal Limited and another versus Director, Town and Country Planning Department, Haryana and others 2010 (14) SCC 1; Khargram Panchayat Samiti and another versus State of West Bengal and others (1987) 3 Supreme Court Cases 82 and the order dated 20.12.2023,***

passed by Delhi High Court in Dinesh Mittal & Others versus M/s Triveni Infrastructure Development Co. Ltd. in CO.PET.39 of 2009.

47. Sh. Ashish Chopra, learned Senior Counsel representing respondents No.3 and 4 supported the impugned orders and submitted that the entire problem had been created by the petitioner and that it did not lie in the mouth of the petitioner to contend that the bifurcation of licence is not permissible for it is the petitioner which, in the first instance, transferred the development and marketing rights to five different companies without the permission of the official respondents which infact amounted to bifurcation of the licence. Arguing on the termination of the agreement, reference was made to Clause 8 of the Agreement **(Annexure P-2)** entered into between the parties and contended that there was no clause for termination and Clause 8 of the Agreement only talks about a notice in case of default or breach of any of the terms and conditions of the agreement to cure such default/breach. It was submitted that under the circumstances, the agreements entered into between the parties and the GPAs still exist and operate and there is practically no document to even prima facie show that the GPA/agreement had ever been rescinded. Reference was made to **Annexures P-10 and P-11** which were notices issued by the petitioner to respondents No.3 and 4 and it was submitted that these notices were infact notices to cure the default and it were not notices for cancellation of the agreements/power of attorneys.

48. It was submitted that respondents No.2 and 3 had invested Rs.70 crores and almost 80% of the construction had been done and it is under these circumstances that the authorities passed the orders keeping in mind not only the provisions of law and the agreements etc. entered into between the parties

but also the interest of the allottees.

49. Reference was made to the Civil Suits filed by the petitioner and it was submitted that even in the civil suits, respondents No.3 and 4 as also the agreements/GPAs were recognized.

50. Referring to the impugned orders, it was submitted that the licences had not been bifurcated and infact only the land had been bifurcated. It was submitted that only the in-principle approval had been granted for the change of 'beneficial interest' and all responsibilities of the licencee are there because the licence cannot be bifurcated.

51. Reference was made to the order dated 20.12.2023 passed by the High Court of Delhi in the case of Dinesh Mittal & others versus M/s Triveni Infrastructure Development Co. Ltd. in CO.PET.39/2009 dated 20.12.2023 wherein the petitioner i.e. Maximal Infrastructure Private Limited was directed to give no objection to the transfer of 'beneficial interest' to the BSF Family Welfare Society (Regd.). It was submitted that if a similar permission is granted to respondents No.3 and 4, the project would be completed in one year and possession of the dwelling units would be handed over to the allottees.

52. Reference was also made to the orders passed by the Supreme Court of India in the litigation between the Seth Group and the Mittal Group wherein the Supreme Court of India had taken note of all five developers.

53. It was further submitted that the appeal filed by the petitioner against the order dated 01.10.2019 was simply withdrawn and, therefore, the said order had become final.

54. It was further submitted that before the HRERA also, the issue of

the State taking over the project had arisen. It was submitted that the petitioner has abused the process of law and has left not only respondents No.3 and 4 but also the allottees of dwelling units out in the cold.

55. Sh. Akhil Mahajan petitioner in person in CWP No.19954 of 2022 and respondent No.5 in CWP No.12971 of 2023 submitted that the allottees have suffered an irreparable loss on account of the infighting between the petitioner (M/s Maximal Infrastructure Private Limited) and respondents No.3 and 4 (M/s Heritage Cottages Pvt. Ltd. and M/s ORS Infrastructure Pvt. Ltd.) in CWP No.12971 of 2023. It was submitted that the allottees had invested their hard earned money in the project but they have still not been given possession of the flats allotted to them and that they have been duped by these companies. It was submitted that the orders under challenge are perfectly legal and valid and no interference is called for in the said orders.

REBUTTAL

56. Rebutting the arguments addressed by learned counsel for the respondents, learned Senior Counsel for the petitioner referred to the amended definition clause of the 1975 Act with specific reference to Section 2 (bb), 2 (d) and 2(d)(i) of the 1975 Act. It was submitted that the 1975 Act is a regulatory law and amendments are mostly clarificatory in nature. It was submitted that regulatory laws are to be followed strictly and, therefore, the authorities would not be in a position to relax any provision. It was submitted that it was a common practice of Companies to enter into collaboration agreements and it was only with a view to regulate such agreements that the 2015 Policy was introduced.

57. It was submitted that the directions passed by the Delhi High Court

were not within the framework of the Act and that Courts would not be empowered to pass direction dehors the provisions of 1975 Act. It was submitted that to resolve the situation, the construction can be undertaken by some third party or by the allottees' association but not by respondents No.3 and 4 who are defaulters and had not paid the EDC/IDC etc. It was contended that the petitioner had paid Rs.38 crores under the said head but when recovery was to be made from respondents No.3 and 4, they initiated proceedings before the HRERA.

ANALYSIS AND FINDINGS

58. We have considered the submissions made by learned counsel for the parties.

59. Before adverting to the merits of the case, we consider it expedient to refer to the statutory provisions. The 1975 Act is an Act to regulate the use of land in order to prevent ill planned and haphazard urbanization in or around towns and for development of infrastructure sector and infrastructure projects for the benefit of the State of Haryana. Section 2 (bb) of the 1975 Act was inserted w.e.f. 18.02.2015 by the Haryana Act No.11 of 2017 dated 03.04.2017 and defines change in 'beneficial interest';

> ***"Section 2(bb)***
> ***change in beneficial interest" means change in existing developer, assignment of joint development rights, marketing rights or cumulative change in shareholding pattern beyond twenty-five percent of shareholding existing at the time of grant of licence."***

Section 2 (d), (d1), d(2) and 2(f), defines colonizer, developer and director;

"2(d)

colonizer" means an individual, company or association or body of individuals, whether incorporated or not, owning land for converting it into a colony and to whom a licence has been granted under this Act and shall include a developer;

2 (d1)

'developer' means an individual, company, association, firm or a limited liability partnership, designated through a collaboration/ development agreement with the owner for making an application for grant of licence and for completion of formalities required on behalf of such owner to develop a colony;

2(d2)

'development rights' means the rights given for development of land within the urbanisable limit of development plan either to an owner who surrenders such land to vest with the Government without claiming any compensation for the purpose of obtaining TDR Certificate or to a colonizer whom a PDR Certificate has been issued, after fulfilling such terms and conditions and on payment of such fee, as may be prescribed;

2(f)

"Director" means the Director, Town and Country Planning, Haryana, and includes a person for the time being appointed by the Government, by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the Director under this Act and the rules made thereunder;"

60. Section 3 of the 1975 Act deals with licence and lays down that any owner desiring to convert his land into a colony, unless exempted under

Section 9 of the 1975 Act, would make an application to the Director, for the grant of licence to develop a colony. It then goes on to lay down the procedure for such grant of licence.

61. Section 8 of the 1975 Act deals with cancellation of licence and lays down that a licence granted under the Act would be liable to be cancelled by the Director if the colonizer contravenes any of the conditions of the licence or the provisions of the Act or the Rules made thereunder. Section 10 lays down the penalties for contravention of the provisions of the Act or the rules made thereunder.

62. Before the amendment of 2017, the concept of change in 'beneficial interest' was not there in the 1975 Act and the same was introduced by the 2015 policy. The 2015 Policy **(Annexure P-6)** laid down the parameters for allowing change in the 'beneficial interest' viz. change in developer; assignment of joint development rights and/or marketing rights in a licence granted under the 1975 Act. The policy needs to be reproduced for understanding the issue;

> ***"On account of the changing market dynamics, many requests have been received in the Department during the recent times, for either 'Change in Developer' or for Assignment of Joint Development Rights and/or Marketing rights', wherein "Transfer of Licences is not involved, since no change in land-schedule of the licenced colony is involved. It has been observed that these cases, though not involving change in land schedule of the licence and thus not qualifying as transfer of licence, inherently involve 'change in beneficial interest of the existing Developer and thus policy parameters to enable decision on such requests and recovery of administrative charges against the***

same need to be prescribed. Accordingly, in exercise of the powers conferred under section 9A of the Haryana Development & Regulation of Urban Areas Act 1975, the Governor of Haryana is pleased to prescribe the following policy parameters in this regard.

2.0 SCOPE OF THE POLICY: Any case involving change in the 'beneficial interest' of the existing Developer, designated as such at the time of grant of licence, shall be covered under the scope of this policy and shall accordingly require an application to the Director General, Town and Country Planning, Haryana (DGTCP) seeking approval for the same. Without prejudice to their inherent general meaning, the terms:

> ***(i) 'change in beneficial interest', shall include cases pertaining to change in existing Developer, assignment of joint development rights and/or marketing rights; cumulative change in shareholding pattern beyond 25% of shareholding existing at the time of grant of licence; etc., for which the licencee/Developer shall be required to seek the prior approval of DGTCP, under the present policy; and,***
>
> ***(ii) 'new entity' shall include any individual/entity, either proposed to be inducted as the Developer and/or shareholder(s); or for assignment of Joint Development and/or Marketing rights.***

3.0 RECOVERY OF ADMINISTRATIVE CHARGES: Any applicant seeking such change in beneficial

interest shall be required to deposit administrative charges, at the rate of 25% of the applicable licence fee prevailing on the date of such application and in the manner as prescribed under para 4.0 below.

Provided that in case of 'Assignment of Joint Development Rights and/or Marketing rights' over part of any licenced area, the administrative charges shall be levied proportionately against such part of licenced area for which the Joint Development Rights and/or Marketing Rights is proposed to be assigned.

4.0 APPLICATION PROCEDURE: All such requests for change in beneficial interest shall be accompanied by the following documents:

(i)A No-Objection-Certificate from existing 'Developer, filed through its authorized signatory, specifically designated for the purpose, as well as from the 'land-owner licencees', in person (not through GPA/SPA assignees), to the proposed change/assignment.
(ii) A consent letter from the 'new entity' for the proposed change.

(iii) Justification for such request.

(iv) The status regarding creation of third-party rights in the colony. In case no third-party rights are claimed to have been created in the colony, an affidavit to the said effect be also submitted by the existing Developer.

(v) Documents pertaining to Technical and Financial Capacity of the 'new entity proposed to be inducted as a

'Developer' or 'shareholder(s)' as per prescribed policy parameters for the purpose of grant of licence.

(vi) A demand draft for 40% of the applicable administrative charges calculated at the rates prescribed under para 3.0 above.

(vii) An undertaking to pay the balance administrative charges before final approval.

(viii) An undertaking to the effect that in case the administrative charges for such cases is fixed in the Act/Rules at a rate higher than that being recovered, the applicant shall be liable to pay the difference as and when demanded by DGTCP.

4.1. EXAMINATION OF SUCH REQUEST UNDER THE POLICY: All such requests received by the DGTCP under this policy shall be examined on merits and depending upon the nature of request, the DGTCP may direct the applicant/the new entity to furnish/comply with some or all of the following requirements, as applicable, in a period not exceeding ninety days:

i) Fresh Agreement LC-IV, Bilateral Agreement to be executed on behalf of the new entity and bank guarantees to be furnished by the bank on behalf of the new entity against internal development works and external development charges.

ii) An undertaking to abide by the provisions of Act/Rules and all the directions that may be given by

the DGTCP in connection with the above said licenses.

iii) A demand draft for the balance 60% of the applicable administrative charges calculated at the rates prescribed under para 3.0 above.

iv) Registered Collaboration agreement between the proposed Developer and land owning individuals/entities.

v) Clear the outstanding EDC/IDC dues, as specifically directed by the DGTCP.

vi) In projects where third party rights stand created, objections regarding change in Developer shall be invited from the allottees through public notice as well as notice under registered cover, as per the detailed procedures and proforma prescribed by the DGTCP.

vii) An undertaking to settle all the pending/outstanding issues, if any, in respect of all the existing as well as prospective allottees.

viii) An undertaking to be liable to pay all outstanding dues on account of EDC and nterest thereon, if any, in future, as directed by the DGTCP.

ix) An undertaking that all the liabilities of the existing Developer shall be owned by new entity.

(x) Original licences and schedule of land

(xi) An undertaking that notwithstanding the-

assignment of joint development rights and/or marketing rights to a third-party agency, for either entire or part of the colony, the Developer shall continue to be solely responsible for compliance of provisions of the Act/Rules as well as terms and conditions of the licence (applicable in case of assignment of joint development rights and/or marketing rights).

4.2. ISSUANCE OF APPROVAL/ REJECTION ORDERS: Subject to the compliance of the terms and conditions as laid down in the in-principle approval to the satisfaction of the DGTCP, the necessary approval may be allowed. In case of failure of compliance of the prescribed conditions within the prescribed period, the in-principle approval shall automatically lapse and the administrative charges shall be forfeited. The applicants may, however, resubmit their request along with fresh administrative charges, which shall be examined afresh, on merits.

5.0 SPECIAL DISPENSATION: (i) The administrative charges recovered under this policy shall be credited to the IDC Fund created under Section 3-A of the Haryana Development and Regulation of Urban Areas Act, 1975.

(ii) Depending upon the specific requirements on case-to-case basis the DGTCP shall be free to add any further condition at the time of grant of in-principle approval or with the final permission, as deemed fit.

(iii) In such cases where either, the cumulative change

in shareholding remains below 25% of shareholding existing at the time of grant of licence, or, there are changes in the Director(s) of the Developer/coloniser company, the licencee shall be bound to inform the DGTCP at any/all such occasion.

(iv) The policy parameters as above shall be implemented with immediate effect."

63. It is, therefore, clear that the 2015 Policy was introduced for allowing change in **'beneficial interest'** without transfer of licence. A perusal of the 2015 Policy shows that the detailed procedure was specifically laid down in Clause 4.1 and it was laid down in Clause 4.1 (xi) that the developer would continue to be solely responsible for compliance of the provisions of the Act/Rules as well as the terms and conditions of the licence.

64. Reverting to the facts, licences No.34, 35 and 36 **(Annexure P-1)** were granted to M/s Triveni Ferrous Infrastructure Private Limited, M/s Sumit Mittal and M/s Ferrous Alloys Forgings Pvt. Ltd. on 23.01.2007. The licence No.34 pertained to 36.75 acres, licence No.35 pertained to 03 acres and licence No.36 pertained to 7.22 acres of land situated in Village Tikkawal, District Faridabad.

65. Admittedly, the development and marketing rights were transferred to five different companies namely M/s Triveni Infrastructure Development Company Limited (TIDCO which is in liquidation). Ferrous Infrastructure Private Limited, Pal Infrastructure and Developers Private Limited, M/s Heritage Cottages Private Limited (respondent No.3) and M/s ORS Infrastructure Private Limited (respondent No.4).

66. Admittedly, this transfer of development and marketing rights was in violation of the terms and conditions of the licence and the provisions of the 1975 Act for at that time there was no such provision and in any case, the same was done without any permission from or intimation to the official respondents. Relevantly, this arrangement was made in February, 2008 itself i.e. merely one year after the grant of licences No.34, 35 and 36. Specific agreements were executed and power of attorneys were given all behind the back of the official respondents. We would blame not only the petitioner but also the companies (including respondents No.3 & 4) which entered into such agreements with the petitioner/licencees behind the back of the official respondents. It is with this transfer that seeds to various disputes were sown. The agreements dated 18.02.2008 and 01.09.2008 entered into with respondents No.3 and 4 (M/s Heritage Cottages Pvt. Ltd. and M/s ORS Infrastructure Pvt. Ltd.) are on record as **Annexures P-2 and P-3** respectively. The power of attorneys dated 28.04.2008 and 01.09.2008 executed in favour of respondents No.3 and 4 are on record as **Annexures P-4 and P-5** respectively. Vide agreement dated 18.02.2008 **(Annexure P-2)**, all rights, title and interest in the construction and sale of a part of the group housing over Land measuring 2.0643 acres comprising of 2,27,165 square feet of sanctioned FSI (floor space index which is an equivalent of floor area ratio) with compounding rights on 227,165 square feet (FSI) were transferred to respondent No.3. Clause 3.4 of the agreement provided that an irrevocable power of attorney would also be executed in favour of respondent No.3. The licencee also washed its hands off from any responsibility or liability in the event of non-completion of any area of the said land. It was clarified that

respondent No.3 alone would be responsible for all liabilities including criminal and civil and the owners shall in no manner be responsible for any act of commission or omission or mishap that may take place at the said property. The said transfer of development rights etc. was for a total consideration of Rs.9,20,31,356/- (Rupees Nine crore twenty lac thirty one thousand three hundred fifty six only). Clause 15.13 of the Agreement laid down that respondent No.3 alone would be alone responsible in respect of development, construction and sale of the said area in all respects. Clause 15.16 of the Agreement also provided that respondent No.3 would execute buyers' agreement in its name and not on behalf of the owners. Clause 15.20 of the Agreement laid down that the owners had undertaken to carry out the internal development works as per the terms and conditions of HUDA. There were various other clauses which do not need reference at this stage.

67. On similar lines was the agreement dated 01.09.2008 **(Annexure P-3)** executed in favour of respondent No.4. Another thing which would be relevant to be noticed is that there was no clause regarding termination of the agreement and the only clause was Clause 8 of th**e Agreement/s (Annexures P-2/P-3)** as regards cure notice to be issued to the defaulting party. It was provided that in case of any default or breach of any of the terms and conditions of the agreement, the affecting party would give a 30 days cure notice to the defaulting party to cure such default/breach, failing which the non-defaulting party would be free to seek specific performance of this agreement through a Court of law. The power of attorneys **(Annexures P-4 and P-5)** also contained identical clauses. They made reference to the agreement entered into between the parties. Notably, there was no clause as

regards revocation of the said power of attorneys.

68. The petitioner was initially known as M/s Triveni Ferrous Infrastructure Private Limited. It was a joint venture between the Mittal Group and the Seth Group. As certain disputes arose between the parties, they approached the Supreme Court of India by way of WP (Criminal) No.5 of 2015 and WP (Criminal) No.11 of 2015. A settlement was arrived at between the parties on 05.05.2015. Respondents No.3 and 4 were not in the picture and were not a part of the proceedings before the Supreme Court of India. After the settlement arrived at between the Seth Group and the Mittal Group on 05.05.2015, the petitioner issued notices to respondents No.3 and 4 on 21.04.2016 threatening cancellation of the development agreements and the GPA and on 08.06.2016, the GPAs executed in favour of respondents No.3 and 4 were suspended. Intimation in this regard was also issued on 20.06.2016. Faced with this, respondents No.3 and 4 approached the Supreme Court of India in August, 2016 seeking clarification of the order dated 05.05.2015 to the effect that the same was not applicable to respondents No.3 and 4.

69. Before the Supreme Court of India, only the Seth and Mittal Groups were there by way of criminal writ petition filed by the Seth Group. On 14.01.2015, the matter was referred for mediation. Thereafter, on 09.02.2015, the Supreme Court requested Mr. R.V.Raveendran, a former Judge of the Supreme Court of India to mediate between the parties. The learned Mediator submitted his interim report and thereafter, on 10.04.2015, noticing that the parties were open for mediation, the matters were adjourned giving the parties time to arrive at a settlement. Ultimately, the cases came

up for hearing before the Supreme Court of India on 05.05.2015. On the said date, it was stated before the Supreme Court that the parties had settled their disputes and a memorandum of settlement was also recorded on 04.05.2015. The same was put up before the Supreme Court and eventually, the Supreme Court disposed of the matter vide order dated 05.05.2015 **(Annexure P-16)** noticing the terms and conditions of the settlement arrived at before the learned Mediator. A perusal of the order shows that it was essentially a dispute as regards various payments in terms of the agreements entered into between the parties earlier which had led the parties to institute various proceedings against each other including criminal proceedings. Notably, this settlement was arrived at only between the Mittal Group and the Seth Group. The Seth Group was represented by Surinder Seth and Ashish Seth and were promoters of M/s Ferrous Forging Limited, M/s Ferrous Alloy Forging Pvt. Ltd., M/s Ferrous Township Private Limited and M/s Ferrous Infrastructure Pvt. Ltd. The Mittal Group was represented by Sumit Mittal and Madhur Mittal and were promoters of M/s Triveni Ferrous Infrastructure Pvt. Ltd. In Triveni Ferrous Infrastructure Pvt. Ltd, initially, the Seth Group held 50% share and the Mittal Group also held 50% share. It would be essential to notice here that it was this Triveni Ferrous Infrastructe Pvt. Ltd. which had been awarded licences No.34, 35 and 36 alongwith Sumit Mittal who in his individual capacity had been granted a licence No.35. Another thing which needs to be noticed here is that the matter which had reached the Supreme Court was only a dispute between the Mittal Group and the Seth Group and respondents No.3 and 4 were nowhere in the picture. The Mittal Group and the Seth Group, in the considered opinion of this Court did not make an

attempt to solve the whole issue but only settled the issues amongst themselves.

70. In the meantime, the 2015 Policy had come into force. For processing the obligations under this policy, a no objection certificate from the existing developer was essential. On the other side, on 21.04.2016, the petitioner had issued notices to respondents No.3 and 4 for cancellation of the agreements and GPAs which, in the considered opinion of this Court was illegal. Respondents No.3 and 4 submitted applications for change of developer on 30.10.2015 but since there was no NOC from the existing developer as also on certain other grounds, the said applications were rejected on 13.10.2016. Respondents No.3 and 4 preferred CWP Nos.13603 of 2018 and CWP No.13583-2018 against the order dated 13.10.2016 but withdrew the same on 28.05.2018 with liberty to avail other remedies.

71. Complaints were then filed before the HRERA by almost all parties including the petitioner and respondents No.3 and 4 and vide order dated 01.10.2019 **(Annexure P-26)**, the HRERA passed certain directions. It was noticed by HRERA that in violation of law, the parties at their own level had sub divided the licence and assigned its development rights to five different companies which could only have been done with the approval of the State Government. It was observed that had previous approval been sought, the State Government would also have separated their other rights and liabilities. It was observed that since the clock could not be put back in time, an appropriate and practical solution had to be found keeping in view the interests of the allottees. It was also observed that the department would have to facilitate bifurcation of the licences. It would be relevant to notice

here that the word bifurcation has been laid much stress upon by the petitioner stating that bifurcation or division of licence is not permissible. The argument as regards non-permissibility of bifurcation of licence merits acceptance. However, it appears that HRERA did not exactly mean bifurcation and that it was essentially referring to change in the beneficial interest i.e. development rights etc. It had rightly been observed that the four remaining companies should be treated as a separate group for resolving their complex problems and that relaxation in rules may have to be granted by the Town & Country Planning Department. It was observed that the State had either to renew the licence or take over the project itself for completion. It was held that a way forward was possible if the Town & Country Planning Department developed a compassionate understanding of the situation and, by using the existing provisions of law or by creating a new law, divide the licence amongst the developer companies; re-dermine their liabilities; re-sanction their development plans and let the project move forward. Sadly, it was noticed that no response had been received from the Town & Country Planning, Department, Haryana. The most important direction was the final direction in para No.xi of the order dated 01.10.2019 as per which it was directed that all parties should immediately file independent applications with the Town & Country Planning Department for division of licence. It was observed that the original licencee company may not cooperate with the developers for this purpose and the Town & Country Planning Department should consider their consent as having been granted;

"In above terms the captioned complaints are disposed of. All the parties should immediately file

> ***independent applications with the Town & Country Planning Department for division of license as per orders of the Authority. The original licencee company may not cooperate with the developers for this purpose. The Town & Country Planning Department should consider their consent as having been granted. They should take a decision for division of the license, regardless of approval of the licensee company, within a period of 60 days."***

72. A perusal of the aforesaid shows that the HRERA was essentially talking of transfer of development rights/change in beneficial interest and that is why the issue of consent was also mentioned. Notably, this order was not challenged by the petitioner before any forum, though, the Department of Town & Country Planning had filed an appeal before the Appellate Tribunal against the said order on the ground that there was no provision for bifurcation of the licence. However, in the meantime, contempt petitions were filed before the Supreme Court of India on account of non-compliance of the terms of the memorandum of settlement entered into between the Seth Group and the Mittal Group on account of which the appeal was adjourned.

73. The matter was finally decided by the Supreme Court on 24.04.2020 **(Annexure P-24)** wherein it was held that the Mittal Group had willfully divided the obligations and thus passed certain directions to the Mittal Group to pay the entire EDC liability. Certain directions were also issued to the Seth Group. It was also ordered that the DTCP would bifurcate the Seth Group's portion of the land in accordance with law and that the entire exercise would be completed within two months from the date of

lifting of the lock-down. In view of this judgment, the appeal filed by the Department against the order dated 01.10.2019 was dismissed vide order dated 19.06.2020 as having been rendered infructuous. Thereafter, HRERA again passed a resolution directing the Department to bifurcate the licence in terms of the order dated 01.10.2019. Even this order was not challenged by the petitioner before any Forum.

74. The directions dated 24.04.2020 were also apparently not complied with which led both the Mittal Group and the Seth Group to file interlocutory applications before the Supreme Court of India and on 09.10.2020, the Supreme Court of India again issued certain directions to the Mittal Group to comply for renewal of licences within two weeks; to the Seth Group to pay the renewal licence fee proportionate to its share and to pay half of the liability of Pal, ORS and Heritage towards licence renewal fee; directions to the Mittal Group to pay the balance licence fee including half of the Pal, ORS and Heritage. It was also directed that as and when Pal, ORS and Heritage contributed their share of the licence fee, Seth Group and Mittal Group would be entitled to refund failing which appropriate legal proceedings could be initiated against the said groups for recovery.

75. After this, respondents No.3 and 4 filed fresh applications dated 27.07.2021 with the respondents for change of beneficiary under licences Nos.34, 35 and 36. At the time of hearing, the petitioner informed the authorities that they had issued NOC in favour of the Seth Group and would, therefore, have no objection regarding change in beneficial interest in favour of the Seth Group but for respondents No.3 and 4, it was stated before the authorities that the agreements with them had been terminated and, therefore,

no permission for change in beneficial interest should be granted to them. Accordingly, in-principle approval was granted on 09.12.2021/10.12.2021 not only to the Seth Group but also in favour of respondents No.3 and 4;

> ***"25. There is no impediment to grant permission for joint development rights in favour of Ferrous Infrastructure Pvt. Ltd. (FIPL) (Seth Group). Accordingly, in-principle approval for change in beneficial rights is hereby granted.***
>
> ***26. The 40% amount against administrative charges with the request for change in beneficial interest is to be forfeited only where the applicant fails to fulfil the terms and conditions of in principle approval within stipulated time.***
>
> ***With regard to Heritage Cottages Pvt. Ltd. and ORS Infrastructure Pvt. Ltd., the request received from ORS and Heritage on 27.07.2021 for change in beneficial interest as per policy dated 18.02.2015 alongwith fresh undertaking/affidavits with a request to adjust earlier 40% amount deposited against Administrative Charges is accepted as the application was rejected.***
>
> ***27. TIFPL (Mittal Group) informed at the time of hearing that they have already issued NOC in favour of FIPL (Seth Group) and terminated the agreements with Pal, Heritage and ORS (in the year 2016). However, the representative present at the time of hearing pointed out that the licensee company has not returned the agreement amount. Lot of development has already been done till such period.***
>
> ***Heritage Cottage has mentioned that there is no provision in the Indian Contract Act and Indian Relief Act for suspending and. terminating irrevocable***

GPA on consideration unilaterally. The suspension and termination can be done bilaterally with mutual consent after giving the consideration amount or in the court bilaterally. On the basis of development agreement the developer company i.e. heritage has raised construction and also sold flats in the open market w.r.t their portion.

The above companies have been recognized by the Supreme Court also and their liabilities also vest with the developer company.

Even HRERA has observed in order dated 01.10.2019 that the origin licencee company may not cooperate with the developers and the Town & Country Planning Department should consider their consent as having been granted. HRERA has passed said orders to safeguard the Interests of the allotees.

In view of above, the request for joint development rights of Heritage and ORS is considered without the consent of licensees and in principle approval for change-in-beneficial-interest is granted.

28. Zion Promoters Pvt. Ltd. has entered into agreement with FIPL for purchase of FSI rights in Tower-P, Q & R and NOC has not been granted by the licencee. This company was never discussed in the order of Hon'ble Supreme Court of India. From the perusal of the agreement it is observed that the FIPL has sold FSI to the company and has neither associated it as a developer nor the area of the site has been earmarked in the agreement. This area has already been considered for in-principle approval in favour of FIPL (Seth Group). Hence, the request of Zion Promoters Pvt Ltd for joint development rights is hereby rejected.

> ***29. The in-principle approval for joint development rights in favour of Ferrous Infrastructure Pvt. Ltd., ORS Infrastructure Ltd and Heritage Cottage Pvt Ltd may be conveyed to the companies. Final approval shall be granted after compliance of terms and conditions of in-principle approval.***
>
> ***Ordered accordingly. These orders not to be considered as precedent for other cases as these orders have been passed in compliance of order of Hon'ble Supreme Court of India in Contempt Petition No. 836 of 2021 in Contempt Petition (C) No. 34 of*** **2016 in WP (Crl) No. 5 of 2015."**

76. A perusal of the aforesaid operative portion of the order shows that the reference was made to the order dated 01.10.2019, passed by HRERA as also to the orders passed by the Supreme Court of India. In the considered opinion of this Court, this order was passed mainly keeping in view the interest of the allottees and the Director, Town & Country Planning, Haryana (respondent No.2) took a very balanced and pragmatic decision. At this stage, this Court has no hesitation in observing that the Mittal Group and the Seth Group have not acted fairly in so far as, respondents No.3 and 4 were not included in any proceedings before the Supreme Court. Even if we do not delve into this issue for there may be liabilities on both sides and which side owes money to the others is not known nor is this Court the proper forum for the adjudication of the said disputes, one thing which does emerge is that the main sufferers have been the allottees who might have invested the entire savings of their lifetime to get a roof over their heads little knowing that they would in for a rude shock at the hands of the big players in the field.

77. This Court also expresses its anguish on the illegality initially committed while transferring development rights to five companies without any intimation to or permission from the Department of Town & Country Planning, Haryana. Had this illegality not been committed, things, presumably would not have reached this stage where even the Government was compelled to think as to how the situation was to be resolved.

78. Further, we are impelled to observe another thing which needs to be observed here is that the Director, Town & Country Planning, Haryana cannot be expected to be a mute spectator and merely because, no consent was being given by the original licencee/owner/developer, it could not have rejected the applications of respondents No.3 and 4. The licencees who had themselves committed an illegality by transferring the development rights to five companies dehors the rules and regulations cannot be permitted to now contend that without their no objection, the development rights cannot be transferred.

79. This order was upheld in appeal vide order dated 21.02.2022 **(Annexure P-31)**;

> ***"I have heard the rival contentions of the parties and have perused the record Carefully. From the records and contention of the parties the appeal deserves to be dismissed and the impugned order deserves to be upheld for the following reasons:-***
>
> ***i] The in-principle approval (dated 09.12.2021/10.12.2021 for assignment of Joint Development Rights to Heritage Cottages Pvt. Ltd. and ORS Infrastructure Pvt. Ltd has been granted as per due***

procedure of law and as per provisions of the change in beneficial interest policy dated 18.02.2015 consequent upon renewal of licence and payment of EDC/SIDC dues and also in view of order of the Authority dated 01.10.2019 for the benefits of the allottees. It is pertinent to mention if Heritage Cottages Pvt. Ltd. and ORS Infrastructure Pvt. Ltd. are not acknowledged as legal entities in the licence then home buyers and other 3rd party in whose favour rights have been created then the allottees will suffer. It is true that the authority can send recommendation only to the State Government under section-32, but, it cannot issue directions to the Government under section-37 of the Act, 2016. Section-37 reads as "Powers of Authority to issue directions The Authority may, for the purpose of discharging its functions under the provisions of this Act or rules or regulations made thereunder, issue such directions from time to time, to the promoters or allottees or real estate agents, as the case may be, as it may consider necessary and such directions shall be binding on all concerned." However in the present case, the spirit of the order has to be seen in context of the order passed by. Hon'ble Supreme Court to resolve dispute between original licensee and developer. The licensee had changed the developer even without permission of the Department, however, the Director has recognised developers namely Pal, ORS, Heritage etc

without taking express consent of the original licensee assuming its deemed consent to put end to the dispute and to comply order of Hon'ble Supreme Court.

ii] As per the MOS dated 04.05.2015, the payment of fee, charges and submission of bank guarantee to DTCP Hr. w.r.t. licence no. 34-36 of 2007 was to be made by Seth Group & Mittal Group.

iii] The department cannot take the reign of the bilateral civil disputes. The appellant is at liberty to pursue their legal remedies available under the relevant law to recover the dues from the respondent no. 3 & 4, if any. The appellant could have taken legal route by seeking permission of the Department for change of developer under policy dated 18.02.2015 in which case he could have represented to the Director for redressal of its grievance, however, in this case without knowledge of Department and behind the back of Department, the licensee went ahead and signed agreements with the developers unilaterally and subsequently as mentioned above also terminated agreements unilaterally. Therefore, at the stage it would only be appropriate that licensee seeks legal remedy at appropriate legal forum i.e. civil court. For the department, it would be important and relevant at this stage to ensure that interest/rights of allottees are protected

and safeguarded because these third party rights are created with the will and consent of licensee in the first place.

iv] That appellant without the permission of Director have assigned the development right in favour of respondent no. 3 &4 in gross violation of terms and conditions of the licence. The appellant himself is thus a wrong doer and now cannot be permitted to take a volte-face.

v) Consent of appellant is not required in view of the order of the Authority referred above and particularly in view of the fact that policy itself gave powers to the Director to relax any of the conditions keeping in view of the facts of the case.

vi) The interest of allottees has to be protected and they cannet and fancies of the licencee/developer.

vii) That GPA executed in favour of respondent no. 3 & 4 cannot be terminated unilaterally and view of the Director on this aspect is correct in view of provisions of Section 202 of the Indian Contract Act.1872 which provides that " Termination of agency where agent has an interest in subject-matter. Where the agent has himself an Interest in the property which forms the subject-matter of the agency, the agency cannot, in the

absence of an express contract, be terminated to the prejudice of such interest." Further, Hon'ble Supreme Court in Seth Loon Karan Sethlya v. Ivan E. John, (1969) 1 SCR 122 has held as (relevant reproduced):-

"5. There is hardly any doubt that the power given by the appellant in favour of the Bank is a power coupled with interest That is clear both from the tenor of the document as well as from its terms. Section 202 of the Contract Act provides that where the agent has himself an Interest in the property which forms the subject-matter of the agency, the agency cannot, In the absence of an express contract, be terminated to the prejudice of such interest. It is settled law that where the agency is created for valuable consideration and authority is given to effectuate a security or to secure interest of the agent, the authority cannot be revoked. The document itself says that the power given to the Bank is Irrevocable. It must be said in fairness to Shri Chagla that he did not contest the finding of the High Court that the power in question, was irrevocable."

In view of the reasons mentioned above, the appeal deserves to be dismissed being of any merit. Hence, dismissed."

80. A perusal of the aforesaid order shows that again a very pragmatic and balanced view was taken, noticing the dispute between the parties, the

decision of the Supreme Court of India, the terms and conditions of the licence, the terms and conditions of the 2015 Policy, the memorandum of settlement dated 04.05.2015 entered into between the Seth Group and the Mittal Group. It was rightly held that the department cannot take the reign of bilateral civil disputes and that the appellant i.e. the petitioner herein would be at liberty to pursue its legal remedies available under the relevant law to recover the dues from respondents No.3 and 4, if any. It was also noticed that behind the back of the department, the licencees had unilaterally signed agreements and had, thereafter, unilaterally terminated the same. It was held that the appellant himself being a wrongdoer cannot be permitted to take a volte-face. It was rightly held that the consent of the appellant was not required particularly in view of the fact that the Policy itself gives power to the director to relax any of the conditions keeping in view the facts of the case. It was also rightly held that the interest of the allottees had to be protected and they could not be left on the whims and fancies of the licencees/developers. Subsequent writ petitions filed against the said order and withdrawal of the said writ petitions is a matter of record and does not require reference.

81. Eventually, vide order dated 07.03.2022, the permission for assignment of joint development and marketing rights was granted to respondents No.3 and 4. Subsequent filing of writ petitions and withdrawal of the same do not deserve a specific mention but eventually, vide order dated 25.05.2023, passed by DGTCP, Haryana, the orders dated 09.12.2021 and 07.03.2022 were upheld.

82. A cumulative reading of the orders passed by different authorities

from time to time leads this Court to the conclusion that there is no illegality in the impugned orders and they have been passed in the peculiar facts and circumstances of the issue. It is said that 'procedure is the handmaid of justice' and it has to be construed for the benefit of the parties concerned and not to their detriment. Procedure should promote justice and should prevent miscarriage of justice. The ultimate sufferers in the whole issue have been the allottees apart of course from the concerned parties who must have suffered financial losses. At the end of the day, the interests of the allottees cannot and should not be compromised and this is precisely what the authorities rightly kept in mind while passing the impugned orders. We, therefore, do not intend to interfere in the said orders and infact uphold the same.

83. The argument that the Director, Town & Country Planning did not have any power under the 1975 Act and the 2015 Policy to order the transfer of beneficial interest without an NOC from the petitioner is devoid of merit. No doubt, under the 1975 Act, there was no provision earlier for change in beneficial interest but the same was subsequently incorporated in 2017. Under the 2015 Policy, an NOC is required from the licence holder. However, this cannot, under any circumstance, be construed to mean that the director would have no powers to rectify an illegality and that he was supposed to be simply a mute spectator to the misdeeds of the licence holders. At the cost of repetition, it needs to be reiterated that the petitioner cannot be permitted to raise this argument once it had itself violated the provisions of 1975 Act by transferring the development rights just one year after the grant of the licences. As has been observed in the preceding

paragraphs, procedure should promote justice and should prevent miscarriage of justice. Had the director not exercised his discretion and had not ordered the transfer of beneficial interest, it would have amounted to gross miscarriage of justice.

84. The argument that vide order dated 17.11.2017, the Supreme Court of India had observed that only the Seth Group, the Mittal Group and the State would be heard and, therefore, respondents No.3 and 4 cannot derive any benefit from the said order is devoid of merit. The argument that vide order dated 24.01.2024, the application for impleadment and clarification moved by respondents No.3 and 4 had been dismissed is also devoid of merit because the parties before the Supreme Court were the Mittal Group and the Seth Group and, therefore, no recognition could have been given to respondents No.3 and 4. The Supreme Court, however, did talk about the bifurcation of the licence which was taken notice of by the authorities also in their subsequent orders which have been impugned in the present writ petitions.

85. The argument that in terms of the 2015 Policy, without an NOC from the original licencee/owner and without a fresh LC-IV Form having been executed between the DTCP and the existing owner, the beneficial rights could not have been transferred is also devoid of merit because it was under special circumstances that the consent was deemed to have been given. The authorities, rightly did not let the petitioner get away with the lame excuse of an NOC not having been given. Similarly, there would be no requirement of registered collaboration agreement between the owner and developer once the powers were being exercised in special circumstances and

where the owner had backed out completely.

86. The argument that the authorities had wrongly observed that the agreements and GPAs could not have been terminated unilaterally in view of the provisions of Section 202 of the Indian Contract Act, 1872 and that these issues were required to be decided by the Civil Court of competent jurisdiction would also not come to the aid of the petitioner because eventually, the parties will have to get their rights and liabilities adjudicated before the Civil Court but the orders were passed keeping in view the interest of the allottees and, therefore, do not call for any interference.

87. The argument that a bilateral agreement between the parties could not have been interfered with by the director is also devoid of merit. The bilateral agreement, if at all, was between the licensor/promoter and the allottees and any agreement illegally executed with a third party at the back of the official respondents cannot be termed to be a bilateral agreement and, therefore, it cannot be argued that such agreements are not liable to be interfered with.

88. We have carefully examined the judgments relied upon by learned counsel for the petitioner. Reliance has been placed upon certain judgments on particular propositions**.** Judgments in the cases of ***M.C.Mehta versus Union of India and others, T.Vijayalakshmi and others versus Town Planning Member and another and Chairman, Indore Vikas Pradhikaran versus Pure Industrial Coke & Chemicals Ltd. and others (supra)*** have been relied upon to contend that the orders under challenge are in complete violation of the 2015 Policy which is based upon the provisions of the 1975 Act and that under the regulatory laws, the authorities cannot go beyond the

scope of the provisions of the Act, Rules or Policy. Though, there is no quarrel with the proposition laid down in the said judgments, they would not come to the aid of the petitioner for the said judgments were rendered in the particular facts of the cases in question. Still further, as has been already observed, the authorities could not have remained a mute spectator in view of the gross illegalities committed by the petitioner which led to the allottees suffering for no fault of theirs.

The judgments in the cases of ***Commissioner of Income Tax Vs. Balbir Singh Maini, Suraj Lamp and Industrial Private Limited versus State of Haryana and another, Dilshad Alvi versus Sri Ikrar Ahmed and Shakeel Ahmed versus Syed Akhlaq Hussain (supra)*** have been cited to contend that an unregistered agreement can neither be looked into nor it can create any right, title, interest or charge in the property. Again, there is no quarrel with the law laid down in the said judgments. However, these judgments would also not come to the aid of the petitioner because the petitioner cannot be permitted to take the benefit of its own wrongs. The petitioner nowhere denies the execution of the agreement in question and has also raised a plea that action could have been taken in terms of the provisions of the 1975 Act and the 2015 Policy only. Under the circumstances, it would not be open for the petitioner to contend that since the agreements were not registered, they would not create any right, title or interest.

The judgments in the cases of ***DLF Universal Limited and another versus Director, Town and Country Planning Department, Haryana, Ashok Kumar Jaiswal and others versus Ashim Kumar Kar and Barses J.A.D'Douza versus Municipal Corporation of Gr. Brihan Mumbai***

(supra) have been relied upon to contend that Section 202 of the Indian Contract Act cannot be invoked as the authorities under the 1975 Act do not have any such power. These judgments would again not come to the aid of the petitioner as the bilateral agreement can be stated to be between the licencee and the allottees and not agreements between third parties in violation of the provisions of the Act.

The judgment in ***Abdul Kuddus versus Union of India and others's case (supra)*** has been relied upon to contend that the principle of res-judicata would apply to quasi judicial orders because a similar application for change in beneficiary had been rejected by the authorities and any fresh application could not have been entertained. This judgment would also not help the petitioner because the subsequent applications had been entertained in view of the change in circumstances.

As regards the argument and reliance placed upon the judgment in ***M/s Landmark Apartments Pvt. Ltd. Vs. State of Haryana & Ors.*** *(supra),* as has already been observed, there is no bifurcation of licence in the present case and there is only a change in the beneficial interest though at few places, it has been referred to as bifurcation/transfer of licence. The judgment would, therefore, not help the petitioner.

The judgment in ***Venkataraman Krishnamurthy and another versus Lodha Crown Buildmart Pvt. Ltd.'s*** case (supra) that a Court/Authority can neither re-write the terms of contract nor can it interfere in a bilateral agreement entered into between private parties is not applicable to the facts of the present case because no terms of contract have been re-written nor has been there any interference in any bilateral agreement. This

issue has been discussed repeatedly in the preceding paragraphs and is not required to be discussed again.

As regards the judgments relied upon by learned counsel for the respondents in the case of ***Khargram Panchayat Samiti and another versus State of West Bengal and others (supra),*** *the Ap*ex Court held that under a statute, the conferment of general statutory powers carries with it incidental or consequential powers. It was held that a power of general administration necessarily carries with it the power to supervise, control and manage the actions/acts under the Act and under its jurisdiction. Even in DLF's case (supra), the issue was of the Director, Town & Country Planning having given directions as regards the agreements between the licensor/colonizer and the allottees which is not so in the present case and in that judgment, the scheme of the Act was noticed and, therefore, it was held that the Director was not justified in issuing directions asking the licencee/owner to virtually amend the clauses/covenants in the agreement. It was held that the statute did not confer any authority or jurisdiction upon the director to meddle with the terms of the agreement entered into by and between the owners and purchasers of the plots/flats. As has already been observed, the Director would not be expected to be a mute spectator and the impugned order in no manner, re-wrote the terms and conditions of the agreement between the licensor/owner/colonizer and the allottees.

Incidentally, the Delhi High Court in ***Dinesh Mittal & Ors. versus M/s Triveni Infrastructure Development Co. Ltd.'s case*** (supra) was also seized of a similar issue pertaining to the same colonizer wherein, after examining the matter, the beneficial interest was transferred to the society of

the allottees itself and it was ordered as under:-

> ***"a) M/s Maximal shall give no objection to carry out the above a) directions to the OL within two working days.***
>
> ***b) The Applicant-Society and the OL's Office shall activate the bank account in PNB, Khan Market and ascertain the amount lying therein. Upon ascertaining the same, if any shortfall exists, the same shall be borne by the Applicant- Society and OL's Office in the proportion as directed in the paragraph 20 above.***
>
> ***c) In any case, by 10th January, 2024, an application shall be made before the DTCP, Haryana for transfer of beneficial interest in the manner directed above. Thereafter, the DTCP shall process such application as per the prescribed procedure, and in any case, it is directed that the final order of transfer of beneficial interest shall be passed within a period of three months from the date of submission of all the documents.***
>
> ***d) Let the OL Office and the Applicant-Society place on record a detailed status report providing details of the exercise carried out in the terms of the above directions before the next date of hearing.***
>
> ***e) The DTCP is also directed to process the application for beneficial interest filed by the Applicant-Society on an urgent basis. Let the DTCP file a status report in this regard."***

89. In the present case, the authorities have already passed necessary orders which are under challenge. For the reasons aforementioned, we are not inclined to interfere in the said orders. We are also in agreement with the order passed by the Delhi High Court in ***Dinesh Mittal & Ors. versus M/s***

Triveni Infrastructure Development Co. Ltd. (supra). However, in the present case, while upholding the impugned orders, we also issue a direction to the petitioner i.e. M/s Maximal Infrastructure Private Limited that it would be duty bound to perform its obligations as per the LC-IV agreement executed by it with the department and shall be bound by the terms and conditions of the licences in question.

As a cumulative effect of the aforesaid discussion, we arrive at the conclusion that there is no illegality in the impugned orders. Therefore, finding no merit in CWP No.12971 of 2023, the same is dismissed and CWP No.19954 of 2022 is disposed of in terms of the observations made in the preceding paragraphs.

Pending application(s), if any, stand(s) disposed of accordingly.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

Reserved on : 31.07.2024
Pronounced on : 29.10.2024
mamta

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No

Annexure - A-12

Directorate of Town & Country Planning, Haryana

Nagar Yojana Bhavan, Plot No. 3, Sector 18 A, Madhya Marg, Chandigarh
Phone: 0172-2549349 e-mail:tcpharyana7@gmail.com
website:-http://tcpharyana.gov.in

To

1. Ferrous Infrastructure Pvt. Ltd. (Seth Group),
Regd. Office. L-7, Lower Ground Floor,
Lajpat Nagar-3, New Delhi.
Email ID - info@ferrousinfrastructure.com

2. Maximal Infrastructure Pvt. Ltd. (Mittal Group),
R-13, 2nd Floor, Greater Kailash, Part-1,
New Delhi-110048. Email ID - infra@maximalgroup.net

Memo No. LC-810 Vol-XI-JE (SK)-2022/3409-10 Dated: 08.02.2022

Subject: **Permission for assignment of Joint development & Marketing rights for an area measuring 10.27 acres (FSI 14.80 acres) to Ferrous Infrastructure Pvt. Ltd. out of total licenced area measuring 48.038 acres for development of Group Housing Colony granted vide licence no. 34-36 of 2007 dated 23.01.2007 in Sector-89, Faridabad.**

Ref. In-principle approval issued vide memo no. 31226 dated 10.12.2021 & your letters received on 20.01.2022 & 24.01.2022.

Your request for grant of permission for assignment of Joint development & Marketing rights to Ferrous Infrastructure Pvt. Ltd. for an area measuring 10.27 acres (FSI 4.80 acres) out of total licenced area measuring 48.038 acres under licence no. 34-36 of 2007 dated 23.01.2007 granted for development of Group Housing Colony in Sector-89, Faridabad has been considered in compliance of order dated 24.04.2020 passed by Hon'ble Supreme Court in Contempt Petition No. 34 of 2016, under policy dated 18.02.2015 after payment of requisite administrative charges, receipts of undertakings and compliance of conditions of in-principle approval.

The permission for assignment of Joint development & Marketing rights is hereby allowed subject to the following terms & conditions:-

1. That the land owning company shall not transfer the land for which Joint development & Marketing rights have been assigned to you and not violate any condition of license.

Divya
Assistant Town Planner
O/o Director Town & Country
Planning,Haryana,Chandigarh

2. Maximal Infrastructure Pvt. Ltd. shall be solely responsible for compliance of all the provisions of the Haryana Development and Regulation of Urban Area Act, 1975 & Rules, 1976, and also abide by all the terms & conditions of license as well as agreements executed at the time of grant of license till the final completion of the project.
3. In case of any advertisement for the sale of flats, in the said colony, the name of colonizer must be prominently displayed.

-Sd-
(K. Makrand Pandurang, IAS)
Director, Town & Country Planning
Haryana, Chandigarh

Endst. No. LC-810 Vol-XI-JE (SK)-2022/3411-12 Dated:08.02.2022

A copy is forwarded to the following for information and necessary action.

1. Senior Town Planner, Faridabad.
2. District Town Planner, Faridabad.

-Sd-
(Sunena)
District Town Planner (HQ)
For Director, Town & Country Planning
Haryana, Chandigarh

Assistant Town Planner
O/o Director Town & Country
Planning,Haryana,Chandigarh

Annexure - A-13

Directorate of Town & Country Planning, Haryana
Nagar Yojna Bhawan, Plot No.3, Sector-18-A, Madhya Marg, Chandigarh, Phone: 0172-2549349
Web site tcpharyana.gov.in - e-mail: tcpharyana7@gmail.com

Regd.

To

1. Maximal Infrastructure Pvt. Ltd. (Mittal Group),
R-13, 2nd Floor, Greater Kailash Part-I
New Delhi -110048
Email ID - infra@maximalgroup.net

2. Ferrous Infrastructure Pvt. Ltd. (Seth Group),
Regd. Office. L-7, Lower Ground Floor,
Lajpat Nagar-3, New Delhi.
Email ID - info@ferrousinfrastructure.com

Memo. No. LC-810 Vol-X-JE(SK)-2021/4981-82 Dated: 01-03-2021

Subject: - **Renewal of licence no. 34-36 of 2007 dated 23.01.2007 granted for setting up of Residential Group Housing colony over an area measuring 48.038 acres in Sector-89, Faridabad - Triveni Ferrous Infrastructure Pvt. Ltd. (Now known as Maximal Infrastructure Pvt. Ltd.)**

Please refer to your application dated 21.10.2020 & 23.01.2021 on the above cited subject matter.

The licence no. 34-36 of 2007 dated 23.01.2007 granted for setting up of Residential Group Housing colony over an area measuring 48.038 acres in Sector-89, Faridabad is hereby renewed upto **22.01.2025** in compliance of Hon'ble Supreme Court of India order dated 09.10.2020 in **IA no. 1476/2021 in contempt petition no. 34/2016 in W.P. (Crl.) No. 5/2015** after considering the renewal fees and other undertakings. However, other conditions with regard to licence no. 34-36 of 2007 and bilateral agreement shall remain same. Further, this renewal of licence is subject to following terms and conditions:-

1. This renewal will not tantamount to certification of satisfactory performance of the applicant entitling him for further renewal of license.
2. That applicant shall complete the construction of community sites as per the condition of licence as per the amendment dated 05.02.2020 under the provisions of the Act 1975 and Rules 1976.
3. That both the parties i.e. Mittal Group and Seth Group shall pay be enhanced EDC dues as and when demanded by the department after the final decision of Hon'ble High Court in CWP No. 5835 of 2013 titled as Balwan Singh and Others Vs. State of Haryana.
4. The colonizer shall transfer the sector road/ green belt forming the part of licence land free of cost in favour of the Government.
5. The applicant shall submit the Compliance of Rule 24, 26, 27 and 28 for financial of Haryana Development and Regulation of Urban Areas Rules, 1976 for entire period for which the same does not stands submitted and shall also be

liable for payment for composition fees as prescribed rates for delay in such compliances.

6. That the colonizer shall be liable to construct the EWS flats and take all further necessary action in this regard as per policy dated 17.05.2018 as amended time to time.
7. That both the concerned parties shall apply for change in beneficial interest as per policy dated 18.02.2015 for change in beneficiary interest rights within a period of 30 days after issuance of renewal letter as per the undertakings already submitted by them.
8. That both the parties i.e. Mittal Group & Seth Group shall deposit an amount of Rs. 19,29,124/ against differential amount on account of renewal fee as per their respective share in respect to amendment dated 03.11.2020 in Rule 13 of Rules, 1976 within a period of 30 days after issuance of this renewal letter.
9. The Department had calculated the renewal fee alongwith interest upto 30.09.2020 (including moratorium period). That Both the parties i.e. Mittal Group and Seth Group are required to deposit the interest component on the renewal fee after 30.09.2020 to upto date of receipt of amount with their respective share.
10. That the colonizer shall submit the Bank Guarantees after getting it revalidated upto date.

(K. Makrand Pandurang, IAS)
Director, Town & Country Planning
Haryana, Chandigarh

Endst. No. LC-810 Vol-X-JE (SK)-2021/ 1983-87 Dated: 01-03-2021

A copy is forwarded to the following for information and necessary action:-

1. Chief Administrator, HSVP, Panchkula.
2. Senior Town Planner, Faridabad.
3. Website Administrator with a request to update the status of renewal of license on the website of the Department.
4. District Town Planner, Faridabad.
5. Chief Account Officer of this Directorate.

1/3/21

District Town Planner (HQ)
Director, Town & Country Planning
Haryana, Chandigarh