



\$~C1 and C2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CO.PET. 39/2009, CO.APPLs. 476/2013, 477/2013, 543/2013, 778/2013, 840/2013, 841/2013, 900/2013, 1446/2013, 1585/2013, 1775/2014, 583/2015, 1775/2015, 330/2016, 695/2016, 1356/2016, 5135/2016, 5136/2016, 1366/2017, 441/2018, 474/2018, 689/2018, 830/2018, 912/2018, 424/2020, 545/2020, 655/2020, 656/2020, 5/2021, 72/2021, 180/2021, 181/2021, 302/2021, 444/2022, 732/2022, 33/2022, 734/2022, 21/2023, 36/2023, 513/2023, 713/2023, 754/2023, 755/2023, 756/2023, 766/2023, 776/2023, 27/2024, 28/2024, 243/2024, 244/2024, 245/2024, 246/2024, OLRs 208/2016, 114/2018, 304/2019, 98/2023, OLR 106/2023, 20/2024**

DINESH MITTAL & ORS.

..... Petitioners

Through: Mr. Rajeev Saxena, Adv. (M: 9810811180)

versus

M/S TRIVENI INFRASTRUCTURE DEVELOPMENT

CO. LTD

..... Respondent

Through: Mr. Roopansh Purohit, Adv. for R-2. (M: 9810440322)

Ms. Ruchi Sindhvani, Adv. for OL.

Mr. Abhishek Gupta, Adv. for Applicant in Co. Appl. 27/24. (M: 9871032872)

Mr. Gaurav Gupta & Mr. Sushrut Meena, Advs. for Zion Promoters & Developers. (M: 9818109909)

Mr. Apoorv Kurup, CGSC and Ms. Muskaan Gupta, Adv. for UOI. (M: 8826584325)

Mr. Abhimanyu Bhandari, Ms Nattasha Garg, Mr. Thakur Ankit Singh & Mr. Raghav Alok, Advs. (M: 9654998650)

Ms. Aarohi Mikkilineni, Mr. Deepak Aggarwal, Advs. Along with Mr. Madhur Mittal (Ex-management in



Person)

Ms. Noopur Singhal, Adv. For DTCP
(M: 9312765888)

C2

WITH

+ CO.PET. 333/2010 and 2375/2011, 905/2016, 4542/2016,
4587/2016, 1113/2017, 315/2018, OLR 255/2017

SH. SAMEER SHARMA

..... Petitioner

Through: Mrs. Archana Sharma, Adv. (M:
9650630011)

versus

M/S TRIVENI INFRASTRUCTURE DEVELOPMENT

CO LTD

..... Respondent

Through: Ms. Ruchi Sindhwani, Adv. for OL.
Mr. Abhimanyu Bhandari, Ms
Nattasha Garg, Mr. Thakur Ankit
Singh & Mr. Raghav Alok, Advs.
Ms. Noopur Singhal, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **27.02.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed seeking winding up of the Respondent company-TIDCO. Vide order dated 22nd March, 2012, this Court appointed the Official Liquidator (*hereinafter*, 'OL') as Provisional Liquidator of TIDCO, and thereafter, on 22nd April, 2019, the OL was appointed as the Liquidator of TIDCO. The proceedings primarily relate to the properties of TIDCO, namely, Triveni Galaxy situated at Sector-78 and Triveni Signature situated at Sector-89, Faridabad, Haryana.

Sector-78, Faridabad

3. In the present petition, vide judgment dated 10th October, 2023, this Court directed as follows:



“33. Accordingly, the following arrangement/mechanism is put in place in order to ensure that the title of the Allottees is not disputed in future and the obligation relating to EWS flats is also safeguarded:

- i) All the flats buyers/ Allottees, who have entered into flat buyer’s agreements with ZION shall now be entitled to get sale deeds executed in their favour.
- ii) Since the DTCP licence continues to vest in the name of TIDCO, the OL and ZION shall jointly execute sale deeds in favour of 252 Allottees. The said Allottees shall, at the time of registration of the sale deeds, deposit the requisite stamp duty with the concerned Sub-Registrar.
- iii) ZION shall deposit a sum of Rs. 2 Crores with the OL within three months subject to which ZION would be permitted to put up the remaining 50 unsold flats for sale. The said amount of Rs.2 crore would not be refundable and shall be utilised for either construction of EWS flats or for paying of the creditors of TIDCO.
- iv) Subject to payment of the aforementioned amount of Rs. 2 crores, ZION is permitted to put up the 50 flats for sale and upon any flat buyers agreements which have to be executed henceforth, with new purchasers shall be jointly signed by the Official Liquidator and by ZION. The entire sale consideration shall be divided into 25:75 between the OL and ZION respectively. The new allottees shall then be entitled to get the sale deeds executed in their favour before the concerned Sub-Registrar after paying the requisite stamp duty.
- v) ZION shall place before the Court a draft



sale notice which shall require the proposed purchasers to deposit 25% of the sale consideration directly into the OL's account and 75% in favour of ZION. The said 25% shall be retained by the OL in a separate account in FDR.

- vi) Upon the stamp duty being paid and the sale deeds being executed, the 25% sale consideration lying with the OL shall be released in favour of the Zion, after deducting OL's expenses.*
- vii) The time limit for execution of the sale deeds in favour of the existing Allottees is a period of three months so that the Allottees can arrange the stamp duty. The entire process of execution of sale deeds for the allottees shall be concluded by 31st January, 2024 for all the 252 flats.*
- viii) If any of the flats remain unsold, the details of the same shall be placed on record by way of an affidavit so that further orders can be passed in respect of the unsold flats."*

4. On 19th October, 2023, it was submitted by the officials of the DTCP that beneficial interest in the said project is transferable, but the land cannot be sold. On the next date, i.e. 11th December, 2023, it was submitted that the total land area owned by TIDCO in Sector-78 is approximately 37.344 acres. Following the order dated 10th October, 2023, lands claimed by ZION and PAL were delineated, leaving a total of 30.254 acres (26.296 + 3.958 acres) available for sale.

5. On the said date, the OL's counsel placed three valuation reports on record. After perusing the valuation reports, this Court was of the opinion that the land's valuation should now be accepted and sale of the land at



Sector-78, Faridabad should proceed. Following this, DTCP highlighted that the DTCP license for the land expired in 2009 and needs renewal. It was mentioned that the said license could be renewed upon payment of DTCP dues. Mr. Madhur Mittal, Ex-Director of TIDCO, mentioned a Scheme that allowed for resolving the DTCP license issue at a reduced cost, subject to payment of External Development Charges (EDC) and Infrastructure Development Charges (IDC). Thus, on 11th December, 2023 this Court directed as follows:

“54. Ms. Ruchi Sindhvani, ld. Counsel for the OL points out that a letter dated 27th September, 2023 has been written to the DTCP, Haryana for consideration under the said scheme.

55. The Court is of the opinion that the correct approach at this stage would be to proceed by the value of the land per acre, inasmuch as a large amount of the land is still not yet constructed and most of the towers are partly constructed. The Court is, therefore, inclined to accept the valuation provided by M/s Nagpal & Associates vide the valuation report dated 7th November, 2023. Going by the conservative estimate as per the said report, this Court is of the opinion that the first attempt to sell off this land of Triveni Galaxy Project at Sector 78, Faridabad ought to be with a reserve price of Rs.550 crores.

56. Insofar as the issue of DTCP license is concerned, since the towers are already partly constructed and the land at Sector 78, Faridabad is no longer a simple agricultural land, the DTCP license in favour of TIDCO is liable to be renewed subject to payment of any renewal fees that is due. This would also be in the interest of the hundreds of investors who are anxiously awaiting the resolution of these disputes and some relief.



57. Accordingly, the DTCP, Haryana shall consider the letter dated 27th September, 2023 sent by the OL and determine the amount to be paid for renewal of the DTCP license under the Samadhan Se Vikas Scheme Haryana, 2022 and place an affidavit before this Court within two weeks.

58. For the said purpose, Mr. Kataria from the OL's office shall hold a meeting with the officials from the DTCP i.e. Mr. Suraj Katiyal Planning Assistant and Mr. Lalit Bazad, DTP (HQ) at their office in Chandigarh on 14th December, 2023 at 11 :30 am. Between 14th/15th December, 2023, the amount for renewal shall be computed and resolved and the same shall be placed on record by way of an affidavit by 20th December, 2023.

59. The said amount shall also be payable from the sale consideration, which would be received after putting the land at Sector 78, Faridabad to sale.

60. List on 20th December, 2023 along with all pending applications listed today.”

6. On 20th December, 2023, this Court noted that for the land located in Sector-78, the renewal of DTCP license no. 37-39 of 2007 required, among other things, the payment of license fees and EDC charges. The initial calculation of the required amount was provided in an affidavit by Mr. Amit Khatri, Director of DTCP. However, upon perusing the same, this Court directed DTCP officials to recalculate the amounts in collaboration with the counsel for the Official Liquidator (OL) and the officials from the OL's office.

7. Upon being informed by the DTCP by way of an affidavit, this Court, on 21st December, 2023, directed OL to pay Rs. 5,59,27,151/- for the



renewal of license No. 37-39/2007. Certain timelines were also put in place. Further, it was directed that the draft sale notice published by the OL for selling the development rights of the Sector-78, Faridabad project shall include conditions regarding the payment of EDC, enhanced EDC, and renewal of bank guarantees, which are to be fulfilled by the new developer. Further, it given TIDCO's liquidation status, this Court directed that the DTCP would not insist on the compliance of remaining conditions upon the payment of the license renewal fee. Vide order dated 21st December, 2023, this Court directed as under:

“11. The Court is of the opinion that the DTCP license is a crucial component, which would attract better bids for the land at sector 78, Faridabad. Considering this position and the fact that there should not be any further delay in enabling the sale notice being published by the OL for exploring the possibility of a new developer taking over the said land, the following interim arrangement is put in place:

- i) A sum of Rs.5,59,27,151/- shall be paid by the OL towards renewal of license No.37-39/2007 and the same shall be renewed till 22nd January, 2025. Upon the said deposit being made, the renewal shall be communicated to the OL within two weeks. The renewal of the license shall also be reported to the Court.
- ii) The said renewal amount shall be deposited with DTCP by 10th January, 2024 and the DTCP license renewal shall be completed by 25th January, 2024.
- iii) Insofar as EDC, enhanced EDC and the renewal of bank guarantees are concerned, the same would be one of the conditions that would be put in the draft sale notice which is to be published by the OL for the purpose of sale of



the development rights in the Triveni Galaxy Project at Sector 78, Faridabad. The sale notice shall also clarify that the obligations relating to renewal of bank guarantees and other formalities would have to be complied with by the new developer.

12. *Insofar as EWS plots on the said land are concerned, as on date, the status is that the allotment of EWS plots and construction of community services has not commenced. The obligation to construct the same shall also be that of the new developer.*

13. *Subject to the payment of the DTCP license renewal fee, the license shall be renewed. For the time being, compliance of remaining conditions shall not be insisted upon by the DTCP as TIDCO is in liquidation.*

14. *Upon the renewal of the DTCP license, the OL's office shall put up a draft sale notice for the approval of sale of the land at sector 78, Faridabad.*

15. *Insofar as any outstanding amounts to be collected from Land Acquisition Collector in respect of the three land acquisition awards in favour of TIDCO are concerned, the OL office shall contact the office of the concerned Land Acquisition Collector and ensure that the said amounts are duly credited in the name of TIDCO. If any directions are required in this regard, let an application be moved with an advance copy to the Land Acquisition Collector's office so that it can be represented before the Court.*

16. *The ex-management of TIDCO shall assist the OL's office in obtaining the release of the said amounts so that the fund position in respect of TIDCO can be secured.*

17. *Ld. counsel for Maximal Infrastructure Pvt. Ltd. has also handed over the no objection certificate (NOC) to the OL's office for transfer of the four towers in favour of BSF Family Welfare Society and TIDCO as directed yesterday i.e. on 20th December, 2023."*



8. Today, Id. Counsel for DTCP, Ms. Noopur Singhal has appeared virtually.

9. **OLR 20/2024** has been filed by OL in respect of both lands of TIDCO located in Sector-78 and Sector-89, Faridabad. Ld. Counsel for the OL - Ms. Sindhwani has taken the Court through the two orders dated 10th October, 2023 and 21st December, 2023 to submit the following facts:

- i. Regarding the directions in paragraph 33(vii) of the order dated 10th October, 2023, concerning the total of 252 flats for which sale deeds were to be executed as specified in paragraph 33(vii), sale deeds for 100 flats have already been executed. Therefore, an extension of three months is requested for the remaining 152 flats.
- ii. Regarding the directions in paragraph 33(iii) of the order dated 10th October, 2023, the sum of Rs.2 crores has been deposited by ZION with the OL.
- iii. That the DTCP license, as per paragraph 11 of the order dated 21st December, 2023, has been renewed following the OL's deposit of Rs.5,59,27,151/-. However, the DTCP has issued an additional demand for Rs.1,83,870/-. In order to avoid technical difficulties later, let the said amount be deposited by the OL with the DTCP, subject to further orders of this Court.
- iv. Pursuant to the directions in paragraph 11 of the order dated 21st December, 2023, a draft sale notice concerning the development rights in Sector-78, Faridabad has been submitted as Annexure-G, attached to the said OLR. However, there have been concerns about the language used in the sale notice. Therefore, it is directed that officials from the OL and the DTCP convene a joint meeting to



finalise the wording of the sale notice to prevent any future objections. For the said purpose, let the meeting be held on 6th March, 2024 at 11:30 am at the DTCP office and if further time is required, the same shall continue on 7th March, 2024. In the said meeting two representatives of Triveni Faridabad Allottees' Association are permitted to be present.

10. In relation to the draft sale notice contained in Annexure A-1 of **CO.APPL. 243/2024**, for the sale of 50 flats by ZION, the OL has raised several objections. Consequently, the sale notice by ZION is to be first finalised after discussions between ZION and the OL's office. Following this, a meeting for the finalisation of the ZION sale notice shall be held on 20th March, 2024 and 21st, March, 2024, at the office of the DTCP. Upon the both draft notices (i.e. Annexure -G of the OLR and Annexure A-1 of **CO.APPL. 243/2024**) being approved, the OL's office may place the same before the Court on the next date for approval of the sale notices, so that the same may be published and the further procedures can be undertaken.

11. In relation to paragraph 8(i) of this order above, concerning the extension for the remaining sale deeds, time is extended till 30th May, 2024, by when the 152 sale deeds shall also be executed subject to the same conditions as contained in the orders dated 10th October, 2023 and 21st December, 2023.

12. Vide order dated 21st December, 2023, this Court, in paragraph 15 of the said order, directed that regarding any outstanding amounts to be collected from the Land Acquisition Collector (*hereinafter*, 'LAC') concerning the three land acquisition awards in favor of TIDCO, the OL's



office shall contact the office of the concerned LAC, and ensure that the said amounts are duly credited in the name of TIDCO.

13. Regarding the directions concerning the LAC, the said OLR states that in compliance with the said order, the OL sent a letter dated 23rd January, 2024, to the LAC, Faridabad, requesting the release of the remaining compensation for three land acquisition awards in favor of TIDCO, namely LAC No. R-232/2016, R-233/2016, & R-233A/2016. However, no response has been received by this office. Thus, the OLR prays that directions be issued to the LAC to respond to the communications sent by the OL.

14. In relation to the above directions *qua* LAC, let notice be issued to LAC, Faridabad including through Counsel who appears for LAC i.e., Mr. Yeeshu Jain, who shall seek instructions and expedite the release of the compensation in terms of LAC No. R-232/2016, R-233/2016 & R-233A/2016.

15. Let the present order be communicated by the Registry to Mr. Yeeshu Jain, Id. Counsel (**M: 9811394417**).

16. It is directed that an official from the DTCP shall remain physically present in Court on the next date of hearing. Let the present order be communicated to the DTCP, through Id. Counsel Ms. Noopur Singhal.

Sector-89, Faridabad

17. In respect of the land located at Sector-89, Faridabad, this Court, on 20th December, 2023, passed the following directions:

“18. In view of the Policy Parameters, which allow change of beneficial interest, upon completion of requisite formalities, this Court is inclined to accept the prayers of the Applicant-Society. However, the



same would require sub-division of 4 towers in favour of the Applicant-Society and 8 towers in favour of the company in liquidation, TIDCO. Accordingly, the following directions are issued:

- a) The towers namely B-1, B-2, B-3 & B-4 shall now be subdivided from the total of 12 towers and the beneficial interest therein shall be transferred in favour of the Applicant-Society i.e. the BSF Family Welfare Society (Regd.).*
- b) Concerning the remaining 8 towers, the beneficial interest in the same shall now be transferred to TIDCO. The completion of the application procedure as per relevant regulations shall be undertaken by the OL, on behalf of the company in liquidation.*
- c) The present order shall be deemed as a 'No-objection' by M/s Maximal for the said transfer of beneficial interest. A written No objection letter shall also be submitted on behalf of Maximal both in favour of the Applicant society and to the OL's office within three days, so that the transfer of the beneficial interest can take place expeditiously. Required communication be given to the representative of Applicant-Society and to the OL's Office.*

19. As per the affidavit dated 18th December, 2023, handed over today by the DTCP, the total amount that may be required to be paid for the purpose of said transfer of the beneficial interest is to the tune of approximately Rs.70.30 lakhs. The relevant portion of the affidavit reads as under:

“ The applicant seeking such change in beneficial interest is required to deposit administrative charges at the rate of 25% of the applicable license fee prevailing on the date of such application and in the manner as prescribed under para 4.0 of the policy.



*Para 4 of the policy provides the procedure for submission of application for change in beneficial interest. **In case, the application for change in beneficial interest for 14.80 acres land is submitted, administrative charges would work out to Rs. 70.30 Lacs as per license fee applicable as at present. Out of this amount 40% has to be paid along with application for change in beneficial interest and balance 60% amount is to be paid after in principle approval for change of beneficial interest is granted by the Department.** It is submitted that the transfer of license is not involved in such cases.”*

20. Therefore, the said amount be borne by BSF Society and TIDCO in the following proportion.
- | | | |
|-----------------------------------|---|--------------------------------|
| BSF Family Welfare Society | - | 1/3rd of Rs.70.30 lakhs |
| TIDCO /OL | - | 2/3rd of Rs.70.30 lakhs |

21. The necessary documentation and procedures shall be completed by two representatives of the Applicant-Society in coordination with the OL's Office. Mr. Madhur Mittal and the ex-Management shall render complete cooperation for completion of the formalities. The beneficial interest, upon completion of the formalities, shall be transferred in favour of the Applicant-Society as directed above.

22. Mr. Kataria from the OL's Office and the representatives of the Applicant-Society have confirmed the existence of a bank account, opened at PNB, Khan Market, following a supplementary agreement dated 21st July, 2009. The said account is stated to be jointly held by the ex-management and the Applicant-Society. The said account is stated to contain a substantial amount of more than Rs.56 lakhs.

23. In view thereof, the concerned bank officials of the PNB, Khan Market shall permit the said account to be operated by the OL's Office and Applicant-Society's representatives. Since the existence of this account is not in dispute, let the said funds be utilised



for the purposes of completion of formalities of the transfer of the beneficial interest to ensure that the members of the Applicant- Society are not made to pay more for the said transfer of the beneficial interest to be effected.

24. *It is clarified that the transfer of beneficial interest to the Applicant-Society would not be construed as any ownership over the common areas used by the occupants of the said 12 towers. It is further made clear that the common area shall continue to be the common area for all the occupants of the area at Sector 89 Project, including the Applicant-Society.*

25. *With the beneficial interest being transferred in favour of 256 unit holders of the Applicant-Society, the said 256 unit holders shall have no further pending claims against the company in liquidation. It is agreed that this would be a full and final settlement of all the claims of the Applicant-Society against the company in liquidation and their ex-management.*

26. *Let the list of 256 unit holders be supplied to the OL's office within one week by the Applicant-Society.*

27. *Regarding the 10 allottees in tower S8, their claims shall continue to be against the company. The Applicant-Society agrees, upon the beneficial interest being transferred, to withdraw all complaints and other proceedings which they may have filed against the ex-management before various authorities or Courts.*

28. *The ex-management shall also withdraw any complaints before any authority or Court against any members of the Applicant-Society.*

29. *The following timelines shall be followed by the parties.*

- a) *M/s Maximal shall give no objection to carry out the above 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.*
30. *The application is disposed of in the above terms.*
31. *List for receiving compliance on this aspect on 16th January, 2024.*
32. *In the meantime, if any parties wish to seek any further directions, they are free to mention the matter before the Court.”*

18. In respect of the above, the OL's office has made a prayer for permitting valuation of the property of the company at Sector-89, Faridabad, excluding towers B-1, B-2, B-3 and B-4. The OL's office may, accordingly,



get the said asset valued from at least two valuers and place the valuation reports on record by the next date of hearing.

19. Insofar as BSF towers i.e., B-1, B-2, B-3 and B-4 are concerned, Id. Counsel appearing for the Society and the OL as also the counsel for the DTCP have made the following submissions:

- i. That the BSF's bank account in Punjab National Bank has been activated only recently. In the meantime, the BSF society has borne the share of its responsibility and has deposited the fee along with the OL's office with the DTCP.
- ii. Id. Counsel for the DTCP submits that the '*in principle*' approval has been granted for the subdivision of the DTCP license. If so, let the copy of the same '*in principle*' approval be handed over to Id. Counsel for the OL and to the Id. Counsel for the BSF.

20. Accordingly, let the '*in principle*' approval be issued by the DTCP for the remaining towers in favour of the OL as well. The said '*in principle*' approvals be placed on record within two weeks by the office of the DTCP.

21. Regarding the amount in the Punjab National Bank, Khan Market account, the OL's office shall calculate the amount to be paid by the BSF Society. Based on the funds in the said bank account, any necessary adjustments shall be made, and the money shall be refunded to the BSF Society within a period of two weeks.

22. Since the DTCP's stand is that BSF Society has been given '*in principle*' approval, the BSF Society is permitted to start the renovation process in the flats situated in BSF towers B-1, B-2, B-3 and B-4 and Sector-89, Faridabad. Further, the same flats may be occupied by the members of the BSF society, after renovation.



23. List on 5th April, 2024.
24. This is a part-heard matter.

FEBRUARY 27, 2024

dj/dn

PRATHIBA M. SINGH, J