A SHANTISTAR BUILDERS

v.

NARAYAN KHIMALAL GOTAME AND ORS. ETC.

NOVEMBER 17, 1995

B [K. RAMASWAMY, B.L. HANSARIA AND SUJATA V. MANOHAR, JJ.]

Housing—Weaker sections—Allotment to—Supreme Court—Directions to State Government for constitution of Committee comprising of Additional C *District Judge—State Government seeking modification of order—Rejection of.*

This Court in its judgment in *M/s. Shantistar Builders* v. *Narayan Khimalal Gotame & Ors.*, [1990] 1 SCC 520 directed the State Government (i) to constitute a committee for monitoring allotment of the houses to the D **weaker sections, as per the scheme sanctioned while exempting the urban land under section 21 of the Urban Land (Ceiling & Regulation) Act, 1976 and (ii) that one of the members of the Committee should be Additional District Judge to ensure effective implementation of the schemes. The State filed an affidavit seeking modification of the order stating that if the** E **Additional District Judge was to supervise the allotment as per the scheme sanctioned under section 21 of the Act, it would be inconvenient to the appellate authority to consider the scheme under the Act.**

Disposing of the appeal, this Court

F **HELD : The entire thinking of the Government is wholly misconceived. After the exemption under section 20 or 21 is granted, the Committee is required to implement the scheme in terms of the sanction given by the Government for allotment of accomodation to weaker sections of the people. This Court intended to ensure that the builders would abide by the** G **guidelines laid down by this Court in the light of the judgment in Shantistar Builders-I. The Committee would supervise the allotment of the houses to the homeless weaker sections of the people in the light of the guidelines laid down therein. The State Government was also directed to recirculate the revised schemes in the light of the above judgment. In the circumstances, the question of the Commissioner sitting in appeal over the working** H **of the Committee does not arise. The Government is directed to comply**

with the directions for the constitution of the Committee within 30 days from the date of receipt of the order. [480-C-E; F] A

M/s Shantistar Builders **v.** *Narayan Khimalal Gotame & Ors.*, **[1990] 1 SCC 520; referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2598 of 1989. B

From the Judgment and Order dated 16.12.1988 of the High Court of Bombay in Writ Petition No. 4837/87.

F.S. Nariman, P.H. Parekh, R.F. Nariman, D.Y. Chandrachud, P.M. Vakil, J.P. Pathak and Ms. Gitanjali Mithrani for the Appellant. C

S.K. Dholakia, Mrs. Indra Jaisingh, A.M. Khanwilkar, A.S. Bhasme, M.N. Shroff and M.P. Vashi for the Respondents.

The Judgment of the Court was delivered by D

C.A. No. 2598 of 1989.

This Court by its judgment in *M/s. Shantistar Builders* v. *Narayan Khimalal Gotame & Ors.*, [1990] 1 SCC 520 while disposing of the matter directed in paragraphs 21 and 22 the State Government to constitute a E committee for monitoring allotment of the houses to the weaker sections, as per the scheme sanctioned while exempting the Urban land under S.21 of the Urban Land (Ceiling & Regularisation Act, 1976 (for short "the Act"). One of the members of the committee suggested was Additional District Judge. The Bombay High Court was requested to ensure that an F Additional District Judge be made available for enforcing the schemes in every agglomeration, so that the Committee constituted by the State Government would effectively implement the schemes. This Court also impressed upon every Committee to ensure fulfilment of the laudable purpose of providing a home to the poor homeless to effectuate its commitment to the constitutional goal and that every effort should be made G by it to ensure that the builder does not succeed in frustrating the purpose. The State Government should suitably modify its scheme in the light of the judgment rendered in *Shantistar Builders'* case and recirculate the same to all concerned within four weeks from the date of the judgment.

The State had filed an affidavit on March 30, 1990, seeking certain H

A modification or clarifications of the order. One of the modifications sought was that under the Act, the Deputy Commissioner is competent authority and an appeal was provided under the Act, except for Bombay and Pune, to Additional Commissioner. For pune and Bombay, Commissioner would deal with the same. If the Additional District Judge was to supervise the functioning of the allotment as per the scheme sanctioned under S.21 of the Act, it would be inconvenient to the appellate authority to consider the scheme under the Act.

The entire thinking of the Government is wholly misconceived. The Committee had nothing to do with the provisions of the Urban Ceiling Act. After the exemption under S.20 or 21 is granted, the Committee is required to implement the scheme in terms of the sanction made by the Government for construction of buildings by the builders and allotment to weaker section people. This Court intended to ensure that the builders would abide by the guidelines laid down by this Court in the light of the judgment. The Committee would supervise the allotment of the houses to the homeless weaker section people in the light of the guideline laid down therein. The State Government was also directed to recirculate the revised schemes in the light of the above judgment. In the circumstances, the question of the Commissioner sitting in an appeal over the working of the Committee does not arise.

It is submitted that the taking away of the discretionary power of the Government in allotment of the houses is not justified. We do not propose to modify our earlier direction. The Government is directed to comply with the constitution of the Committee within 30 days from the date of the receipt of this order, since the same has already been delayed for more than five years from the date of the judgment constituting the committee.

C.A. No. 2599 of 1989 & C.P. No. 370/95

Rest of the matters are adjourned to next week.

T.N.A. Appeal disposed of.