

PETITIONER:
SHANTISTAR BUILDERS

Vs.

RESPONDENT:
NARAYAN KHIMALAL GOTAME & ORS. ETC.

DATE OF JUDGMENT 17/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)
MANOHAR SUJATA V. (J)

CITATION:
1996 AIR 786 1996 SCC (1) 233
1995 SCALE (6)777

ACT:

HEADNOTE:

JUDGMENT:

WITH
C.A. NO.2599 OF 1989
O R D E R

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 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 & Regulation) Act, 1978 (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 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 fulfillment 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 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 modifications 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, the 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 appellant 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 building 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 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 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.