ANSAL PROPERTIES & INDUSTRIES (P) LTD. AND ANR. A

v.

DELHI DEVELOPMENT AUTHORITY AND ORS.

MAY 28, 1992

[N.M. KASLIWAL AND R. M. SAHAI, JJ.] B

Delhi Development Act, 1947—Sections 9(2), 41—Legislative object—Master plan—Restriction on high rise construction by Central Government—Legality of.

C

Delhi Development Act, 1947—Sections 41 read with Bye-Laws 6.7.4, 6.1 of the Building Bye-Laws, 1983 of the Delhi Development Authority—Requirement under—Deemed sanction—When arises—Compounding fee—Charging of interest—Whether arises.

The auction of leasehold rights on the plot in question was in favour D
of the appellants for Rs. 8.13 crores on 19.1.1981. The appellant paid 25% of the auction amount on the fail of the hammer. According to the terms and conditions of the auction the balance 75% was required to be paid within 90 days of the formal acceptance of the bid which was made on 18.2.1982. E

The appellants did not pay the balance amount and took a stand that there was some confusion as to whether it was D.D.A. or the Union of India, which was the owner of the plot in question. The appellant also sought for time for payment on the ground that money market in relation to the land property had gone down tremendously. F

On 14.12.1984 revised terms were communicated by the D.D.A. to the appellants. The essential terms of the revised agreement were that 25% of the bid amount was to be paid within 90 days of the issuance of the letter of revised terms. 50% of the remaining bid amount along with interest for G
delayed payments was to be paid in five equal half yearly instalments which included the interest calculated at 18% per annum.

The appellants submitted a bank guarantee dated 15th July, 1985 in favour of the D.D.A. The fresh schedule of instalments was specifically mentioned in the bank guarantee. Thereafter on 23.7.1985, a formal deed H

A of agreement was executed between the parties and possession over the plot was given on 25.7.1985. The building plans were submitted by the appellant on 12.8.1985. The D.D.A. forwarded building plans to the Delhi Urban Arts Commission (DUAC). The DUAC by its letter dated 18.9.1985 sought certain clarifications from the appellant within ten days and again sent a reminder on 24.9.1985, but the appellant did not send any reply.

B

The appellant sent a notice for commencement of construction on 15.10.1985 claiming that they having not received any order of rejection of the plans within sixty days as contemplated under bye-law No.6.7.4 had become entitled to deemed sanction; that the first instalment, according to C the re-schedule of instalments was payable on 15.11.1985 but even before that they had paid Rs. 47 lakhs on 8.10.1985 itself.

Thereafter the Government of India by an office memorandum dated 17.10.1985 decided to stop construction of multi-storeyed buildings in New Delhi including areas under D.D.A. and Municipal Corporation, with D immediate effect till the Master plan for 2001 was finalised.

The DUAC then returned the proposals of the building plans of the appellants to the D.D.A. on 26.11.1985. The D.D.A. by its letter dated 9.12.1985 informed the appellants regarding the decision of the Government of India and returned the building plans and it was directed not to E process the sanction further till further directions were received from the Government of India.

A notice to stop the construction immediately till the plans were sanctioned finally by the D.D.A. was given to the appellants on 17.1.1986.

F

On 25.3.86 the D.D.A. informed the appellants that their plans had been rejected as the same had not been approved by the DUAC.

The appellants filed writ petition challenging the notice issued by the D.D.A. of stopping the construction work and also the ban introduced by G the Government of India.

The High Court on 17.9.1986 passed an interim order permitting the appellants to continue the construction work at their own risk.

On 15.10.1987 the bank guarantee was invoked by the D.D.A. for a H sum of Rs.8 crores approximately.

The appellants filed a second writ petition challenging the encashment of the bank guarantee by D.D.A. and obtained an interim order on 28.10.1987 restraining the D.D.A. from encashing the bank guarantee. A

The ban imposed by the Central Government was lifted on 8.2.1988. The appellants completed the construction of the building in 1988 under the cover of the stay order given by the High Court. The two writ petitions were dismissed by the High Court. B

These appeals were filed by the contractors against the judgment of the High Court, by special leave, contending that the D.D.A. was not entitled to charge any compound interest; that the D.D.A. was not entitled to claim any interest for the period 7.10.1985 to 8.2.1988 during which the ban in respect of construction of multi-storeyed buildings remained in force; that the ban itself was also illegal; that the D.D.A. was not entitled to claim any compounding fee; and that the D.D.A. was not entitled to claim any interest on the compounding fee. C D

Partly allowing the appeals of the contractors, this court,

HELD: 1.1. The object of Delhi Development Act is to provide for the development of Delhi according to the plan. While under Section 9(2) of the Delhi Development Act every master plan has to be submitted to the Central Government for approval and the Government may either approve the plan without modifications or with such modifications as it may consider necessary or reject the plan with directions to the Authority to prepare a fresh plan according to such directions. The Development Authority had sent the new master plan for approval of the Central Government and as such the Government for the planned development of Delhi was entitled to issue directions in consonance with law. [475 H-476B] E F

1.2. There was no violation of law in issuing a restriction on high rise constructions during the formulation stages of the new master plan pending for approval before the Central Government. Thus it cannot be said that the ban imposed by the Central Government was in any manner unauthorised or illegal. [476 D] G

2.1. The question of deemed sanction only arises if within sixty days of the receipt of notice under 6.1. of the bye-laws the authority fails to intimate in writing to the person who has given a notice of its refusal or H

A sanction or any intimation. [478 B]

2.2 In the instant case the D.D.A. had informed the appellant that the plans had been sent to DUAC for approval and the DUAC was also seeking some clarifications from the appellant by their letters dated 18.9.1985 and 24.9.1985. [478 B]

B

2.3. The requirement as contemplated under bye-law 6.7.4 is that the fact of deemed sanction has to be immediately brought to the notice of the authority in writing by the person who has given notice and thereafter if no intimation is received from the authority within 15 days of giving such written notice the provision of deemed sanction comes into operation.

C [478 C]

2.4. The appellant only sent a notice for commencement of construction on 15.10.1985 and the same does not fulfil the requirement of the notice which is contemplated under bye-law 6.7.4 in as much as intimation had already been given by DUAC seeking information. Apart from this the

D ban on the construction of multi-storeyed buildings came into operation from 17.10.1985 itself and in view of this circumstance also there was no question of the applicability of deemed sanction in the facts of this case. [478 D-E]

E 2.5. The amount which was required to be paid in five instalments of Rs. 166.20 lakhs each from 15.11.1985 to 15.11.1987, included simple interest charged at the rate of 18% per annum but it was based on a fresh agreement and the appellants cannot claim any right to re-open the transaction on the basis of terms of auction made originally in 1982. The indulgence of re-scheduling of delayed payment of bid amount in July, 1985 was made on the

F request of the appellant and for its own benefit. Thus the D.D.A. is perfectly right and justified in claiming future interest at the rate of 18% per annum on the instalments fixed in the agreement dated 23rd July, 1985. The D.D.A. is not charging any compound interest but are claiming simple interest at the rate of 18% per annum on the amount of instalments fixed in the fresh

G agreement dated 23rd July, 1985 till payment, After novation of the agreement the instalments fixed shall be considered as principal amount and thus it is not a case of charging compound interest. [474 H-475 C]

2.6. For charging of interest during the ban period is concerned, the D.D.A. cannot be held responsible as the ban was imposed by the Central

H Government. This action was taken for the whole of Delhi and the D.D.A.

was to carry out such directions as provided under Section 41 of the Delhi Development Act, 1957. [475 D-E] A

2.7. It is not in dispute that the building has been constructed without any sanction or permit from the D.D.A. as required under the building bye-laws and the building has been constructed at the risk of the appellant under the stay order of the High Court. [478 F] B

2.8. No building permit has been given to the appellants and as such they are bound to pay the compounding fee according to the rates prescribed in this regard. [479 C]

2.9. In the facts and circumstances of the case the D.D.A. is not entitled to charge any interest on the compounding fee. [479 D] C

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2457 and 58 of 1992.

From the Judgment and Order dated 31.10.1991 of the Delhi High Court in C.W.P. Nos. 1499/86 and 3068 of 1987. D

Harish Salve, Ms. J.S. Wad, Ms. Tamali Wad and Manoj Wad for the Appellants.

V.R. Reddy, Addl. Solicitor General, Arun Jaitley, Ms. Indu Malhotra, C. Ramesh, V.K. Verma and C.V.S. Rao for the Respondents. E

D.D. Sharma, C.L. Chopra and Ms. Rachna Issar for the Intervener.

The Judgment of the Court was delivered by F

KASLIWAL, J. Special leave granted.

It is one more avoidable litigation between Ansals, a big building contractor and the Delhi Development Authority in which allegations and counter allegations for breach of terms of contract have been levelled against each other. We would have asked the appellant to stand in queue G for hearing of the matter, but the real sufferers would be those persons who have invested their hard earned life time savings in forlorn hope of an allotment of a flat in a commercial building on plot No. 38 situated in Nehru Place near Kalkaji a prime place of importance in Delhi. It is the repetition of the usual bureaucratic rigmarole from the side of the *Delhi* H

A Development Authority and th usual payment of some instalments of the lease money and thereafter withholding the payment of the balance amount on one pretext or the other form the side of the builders.

Facts in brief, shorn of details and necessary for the disposal of this case are that the auction of leasehold rights on plot No. 38, Nehru Place B was knocked down in favour of M/s Ansal Properties & Industries (P) Ltd., hereinafter referred to as "the appellant" for Rs. 8.13 crores on 19.1.1981. 25% of the auction amount was paid on the fall of the hammer. According to the terms and conditions of the auction the balance 75% was required to be paid within 90 days of the formal acceptance of the bid which was C made on 18.2.1982. The appellant admittedly did not pay the balance amount and took a stand that there was some confusion as to whether it was D.D.A or the Union of India, which was the owner of the plot in question. The appellant also sought the indulgence of granting more time for payment on the ground that money market in relation to the land property had gone down tremendously. On 14.12.1984 revised terms were D communicated by the D.D.A to the appellant. The essential terms of the revised agreement were that 25% of the bid amount was to be paid within 90 days of the issuance of the letter of revised terms. 50% of the remaining bid amount along with interest for delayed payments was to be paid in five equal half yearly instalments which included the interest calculated at 18% E per annum. These instalments were fixed in the following manner :

(i) Ist instalment payable on 15.11.1985 Rs. 166.20 lacs.

(ii) 2nd instalment payable on 15.5.1986 Rs. 166.20 lacs.

F (iii) 3rd instalment payable on 15.11.1986 Rs. 166.20 lacs.

(iv) 4th instalment payable on 15.5.1987 Rs. 166.20 lacs.

(v) 5th instalment payment on 15.11.1987 Rs. 166.20 lacs.

G The appellant in this regard submitted a bank guarantee dated 15th July, 1985 of the Canara Bank and New Bank of India in favour of the D.D.A. The aforesaid fresh schedule of instalments was specifically mentioned in the bank guarantee. Thereafter a formal deed of agreement was executed between the parties on 23.7.1985 and possession over the plot was given on 25.7.1985. The building plans were submitted by the appellant on H 12.8.1985. The D.D.A. vide letter dated 13.9.1985 forwarded building plans

to the Delhi Urban Arts Commission (DUAC). The DUAC by its letter dated 18.9.1985 sought certain clarifications from the appellant within ten days and again sent reminder on 24.9.1985, but the appellant did not send any reply. The appellant then sent a notice for commencement of construction on 15.10.1985. The appellant claimed that they having not received any order of rejection of the plans within sixty days as contemplated under bye law No.6.7.4. had become entitled to deemed sanction. The appellant claimed that the first instalment, according to the re-schedule of instalments was payable on 15.11.1985 but even before that they had paid Rs. 47 lakhs on 8.10.1985 itself. Thereafter the Government of India by an office memorandum dated 17.10.1985 decided to stop construction of multi-storeyed buildings in New Delhi including areas under D.D.A. and Municipal Corporation of Delhi falling in South Delhi, with immediate effect till the Master plan for 2001 was finalised. It was clarified that a 'multi-storeyed building' may be taken as a building going beyond 45 feet or above four storeys, which has to be serviced by lifts. The DUAC then returned the proposals of the building plans of the appellant to the D.D.A. on 20th November, 1985. The D.D.A. by its letter dated 9.12.1985 informed the appellant regarding the decision of the Government of India and returned the building " plans and requested them to depute their architect to discuss about the height of the building. It was mentioned in the letter that the sanction shall not be processed further till further directions are received from the Ministry of Urban Development, Government of India. A notice to stop the construction immediately till the plans were sanctioned finally by the D.D.A. was given to the appellant on 17.1.1986. By another letter dated 25.3.1986 the D.D.A. informed the appellant that their plans had been rejected as the same had not been approved by the DUAC. The appellants then filed writ petition No. 1499/86 on 17th July, 1986 challenging the notice issued by the D.D.A. of stopping the construction work and also the ban introduced by the Government of India. The High Court on 17.9.1986 passed an interim order permitting the appellants to continue the construction work at their own risk. On 15.10.1987 the bank guarantee was invoked by the D.D.A. for a sum of Rs. 8 crores approximately. The appellants filed a second writ petition No. 3068 of 1987 challenging the encashment of the bank guarantee by D.D.A. and obtained an interim order on 28.10.1987 restraining the D.D.A. from encashing the bank guarantee. The ban imposed by the Central Government was lifted on 8.2.1988. The appellants completed the construction of the building in 1988

A B C D E F G H

A under the cover of they stay order given by the High Court. The aforesaid two writ petitions have been disposed of by the High Court by order dated October 31, 1991. The High Court after examining the matter in detail arrived to the conclusion as under :-

> B "After considering the pleadings of the parties, documents on record and submissions made before this court, it is absolutely evident that the petitioner has been consistently making defaults in payment of the amount due to the D.D.A. on one pretext or the other. According to the terms of the auction, the petitioner's bid was accepted on February 19, 1982 and the C petitioner was supposed to deposit the balance 75% of the bid amount within 90 days. The amount which ought to have been deposited with the D.D.A. way back in 1982 has not been deposited till this date. Further more at the request of the petitioner, the D.D.A. entered into an agreement with the petitioner. This agreement was entered into because the D petitioner pleaded grave financial difficulty and according to the agreement, the first instalment had to be deposited by the petitioner on or before November 15, 1985 and all subsequent instalments on or before 15th November, 1987. Astonishingly, till this date not even one full instalment has been deposited E by the petitioner. Looking to the entire past conduct of the petitioner, no indulgence can be granted in any manner because any indulgence would be at the cost of public money".

The High Court then observed that after careful consideration of the facts and the issues involved in the case it would be proper to dispose of F the writ petitions with the following directions:

(i) The petitioner is directed to pay the balance outstanding amount due to the Delhi Development Authority, including interest at the rate of 18% per annum within a period of two months from today.

G

(ii) the respondent-D.D.A. would be entitled to encash the bank guarantee furnished by the petitioner. The amount recovered by encashment of bank guarantee from the petitioner would stand adjusted from the total outstanding amount.

H (iii) On the petitioner's making the entire payment, the respondent

shall sanction the building plans forthwith and in no case later than one month of receiving the entire outstanding amount from the petitioner. A

(iv) Thereafter the petitioner shall apply for the grant of occupancy certificate as per rules, if not already applied.

The respondent D.D.A. shall grant necessary certificate as per rules without any delay but in any event not later than two weeks from the date of the petitioner's submitting application pertaining to occupancy certificate. B

Subject to these directions, both these writ petitions are dismissed. Counsel's fee is addressed at Rs. 5,000. It is made clear that if the petitioner fails to comply with the above directions, the respondent shall be at liberty to take necessary action as permissible according to law. C

Aggrieved against the aforesaid Judgment of the High Court the appellants by grant of special leave have come in appeal before this Court. We have heard learned counsel for the parties at length and have thoroughly perused the record. The contentions now raised before us on behalf of the appellants can be summarised under the following points: D

(i) The D.D.A. is not entitled to charge any compound interest. E

(ii) The D.D.A. is not entitled to claim any interest for the period 7.10.1985 to 8.2.1988 during which the ban in respect of construction of multi-storeyed buildings remained in force. The ban itself was also illegal.

(iii) The D.D.A. is not entitled to claim any compounding fee which amounts to Rs. 93 lakhs. F

(iv) The D.D.A. is not entitled to claim any interest on the compounding fee.

We shall consider the above submissions in seriatim. G

Point No.1 : It has been submitted by the Learned counsel for the appellants that the authority to levy interest in the instant case flows from the statutory directive issued by the Government and incorporated in the letter dated 14.12.1984. This letter states that ".....The delayed payment of premium will carry interest 18 per cent p.a. from the due date, viz. H

17.5.1982, to the actual dated of payment.....". The revised agreement dated 23rd July, 1985 accordingly provides in clause 2 ".....The balance amount and the interest for delayed payment of the bid amount shall be payable by the auction purchaser in five equated half yearly instalments including interest calculated at 18 per cent per annum on the following dates.....".

It has been contended that the bank guarantee dated 15.7.1985 is really a part of the same transaction. In fact the licence agreement of 23.7.1985 was issued only upon furnishing of the bank guarantee dated 15.7.1985. It is submitted that the total amount demanded by the D.D.A. includes an element of Rs. 6.69 crores as further interest. This interest amounting to Rs. 6.69 crores comprises of the following .....(a) Rs. 3.27 crores is the interest on the balance unpaid premium of Rs. 3.60 crores (as on 15.11.1985) (b) Rs. 3.42 crores is the interest on interest component already included in the instalments referred to in the bank guarantee.

It has been contended that the further claim of interest on the five instalments of Rs. 1.66 crores each amounts to charging compound interest as the instalments already include interest. According to the appellants even if the interest is charged then it should be a simple interest re-calculated as though the instalments instead of being paid in the period 1985-87 are being paid in 1991-92 on the same principle which was adopted when the instalments were initially fixed in 1985. We find no force in the above contention. As already mentioned above the auction was knocked down for Rs. 8.13 crores on 19.1.1982 and the appellant had paid only 25% of the auction amount on the fall of the hammer. According to the conditions of the auction the balance 75% was required to be paid within 90 days of the formal acceptance of the bid which was made on 18.2.1982. The balance amount was thus payable by 18.5.1982. Admittedly the appellant did not pay the balance amount uptil 18.5.1982 and thereafter sought to raise certain objections regarding the ownership of the plot in question, but ultimately made a request that due to money market in relation to the land property having gone down tremendously some more time may be given for making the balance payment. Thereafter a fresh agreement was executed by the appellant on 23.7.1985 re-scheduling the payment in instalments and according to which the amount was required to be paid in five instalments of Rs. 166.20 lakhs each from 15.11.1985 to 15.11.1987. This amount no doubt included simple interest charged at the rate of 18% per

annum but it was based on a fresh agreement and the appellants cannot claim any right to re-open the transaction on the basis of terms of auction made originally in 1982. The indulgence of re-scheduling of delayed payment of bid amount in July, 1985 was made on the request of the appellant and for its own benefit. Thus the D.D.A. is perfectly right and justified in claiming future interest at the rate of 18% per annum on the instalments fixed in the agreement dated 23rd July, 1985. The D.D.A. is not charging any compound interest but are claiming simple interest at the rate of 18% per annum on the amount of instalments fixed in the fresh agreement dated 23rd July, 1985 till payment. After novation of the agreement the instalments fixed shall be considered as principal amount and thus it is not a case of charging compound interest as contended on behalf of the appellants.

Point No. (ii) :– So far as charging of interest during the ban period is concerned, the D.D.A. cannot be held responsible as the ban was imposed by the Central Government. The Central Government by an office memorandum dated 17.10.1985 decided to stop construction of multi-storeyed buildings in New Delhi including areas under D.D.A. and Municipal Corporation of Delhi falling in South Delhi with immediate effect till master plan for 2001 was finalised. This action was taken for the whole of Delhi and the D.D.A. was to carry out such directions as provided under Section 41 of the Delhi Development Act, 1957. There is no allegation that such action was taken *malafidely* and it cannot be considered as a valid ground for not paying the interest for the period during which the ban on multi-storeyed constructions remained in force. It may also be noted that so far as the appellant is concerned it was not affected by such ban as the construction contained under the umbrella of stay order obtained from the High Court. According to the admitted case of the appellant the construction of the building had completed in 1988 itself and as such the appellant was not put to any loss on account of the ban imposed by the Central Government.

The master plan for Delhi was formulated originally in 1962 with projections up to 1981. There was no provision in any law, master plan, zonal development plans or building bye-laws wherein the appellant was entitled to construct sixteen storeys. Thus the directive of the Central Government dated 17.10.1985 imposing a ban on high rise structures was not contrary to any law. The object of Delhi Development Act is to provide

A for the development of Delhi according to the plan. While under Section 9 (2) of the Delhi Development Act every master plan has to be submitted to the Central Government for approval and the Government may either approve the plan without modifications or with such modifications as it may consider necessary or reject the plan with directions to the Authority to B prepare a fresh plan according to such directions. The Development Authority had sent the new master plan for approval of the Central Government and as such the Government for the planned development of Delhi was entitled to issue directions in consonance with law. Learned counsel for the appellants has placed strong reliance on *Bangalore Medical Trust* v. *B.S. Muddappa and others,* (1991) 3 JT 172. This case is clearly C distinguishable since in that case the zonal plan statutorily provided for the user of a plot of land as a park. The Chief Minister contrary to the said plan, sanctioned the plot for a nursing home. Thus there was a positive violation of law in that case. In the case in hand before us there was no violation of law in issuing a restriction on high rise constructions during D the formulation stages of the new master plan pending for approval before the Central Government. Thus it cannot be said that the ban imposed by the Central Government was in any manner unauthorised or illegal.

Point No. (iii) :– It has been contended on behalf of the appellants E that no compounding fee can be levied since the D.D.A. had wrongfully withheld grant of sanction to the building plans submitted by the appellant. It has been further contended that in view of the commitment made in the licence deed as well as the agreement read together with the letter of 14.12.1984, the D.D.A. was bound to sanction the plans. It has been contended that when the plans were submitted to the D.D.A. for sanction F on 12.8.1985, there was no sum outstanding as due and payable as all the sums which were payable under the agreement up to that date had been duly paid. According to the fresh agreement the first instalment was payable on 15.11.1985 and so far as other payments are concerned the same had already been paid by the appellants. Even according to the bye-laws, the D.D.A. had to sanction plans within sixty days and the D.D.A. had no G justification of withholding the sanction as nothing was required to be done on behalf of the appellants. It has been further contended that according to the stand taken by the D.D.A. itself the sanction was not withheld on account of non-payment of any dues but on account of the ban put by the Central Government. It has been further argued that in any event, the H building has been constructed pursuant to the interim orders of the High

Court which expressly permitted the construction of the building albeit at the risk and cost of the appellant. The High Court has itself recorded a finding that the 16 storeyed building stands constructed according to the bye-laws and even if a formal sanction is given now it should relate back to the date on which such sanction ought to have been granted and the building constructed by the appellant in the present case cannot be considered as unauthorised in law.

The admitted facts of the case are that the building plans were submitted to the D.D.A. on 12.8.1985 and the D.D.A. had forwarded the plans for approval of Delhi Urban Arts Commission (DUAC) on 13.9.1985. Section 12 of the Delhi Urban Art Commission Act, 1973 clearly provides that notwithstanding anything contained in any other law for the time being in force, every local body shall, before according approval in respect of any building operation refer the same to the DUAC for scrutiny and the decision of the Commission in respect thereof shall be binding on such local body. The DUAC by its letter dated 18.9.1985 sought certain clarifications from the appellant within ten days and again sent a reminder on 24.9.1985 but the appellants did not send any reply. On the other hand the appellant sent notice of commencement of construction on 15.10.1985 and on that basis is claiming that having not received any order of rejection of the plans within sixty days as contemplated under bye-law No.6.7.4 the appellant had become entitled to deemed sanction. We find no force in this submission. As already mentioned above, it was necessary to obtain the approval of the DUAC and the DUAC by letter dated 18.9.1985 and 24.9.1985 were seeking certain clarifications from the appellant. Bye-law No.6.7.4 of the building bye-laws, 1983 of the Delhi Development Authority reads as under:–

> "If within 60 days of the receipt of notice under 6.1 of the Bye-Laws, the authority fails to intimate in writing to the person, who has given the notice, of its refusal or sanction or any intimation, the notice with its plans and statements shall be deemed to have been sanctioned provided the fact is immediately brought to the notice of the Authority in writing by the person who has given notice and having not received any intimation from the Authority within fifteen days of giving such written notice. Subject to the conditions mentioned in this bye-laws, nothing shall be construed to authorise any person to

A do anything in contravention or against the terms of lease or titles of the land or against any other regulations, bye-laws or ordinance operating on the site of the work".

According to the above provision the question of deemed sanction only arises if within sixty days of the receipt of notice under 6.1 of the B bye-laws the authority fails to intimate in writing to the person who has given a notice of its refusal or sanction or any intimation. In the present case the D.D.A. had informed the appellant that the plans had been sent to DUAC for approval and the DUAC was also seeking some clarifications from the appellant by their letters dated 18.9.1985 and 24.9.1985. The C further requirement as contemplated under bye-law 6.7.4 is that the fact of deemed sanction has to be immediately brought to the notice of the authority in writing by the person who has given notice and thereafter if no intimation is received from the authority within 15 days of giving such written notice the provision of deemed sanction comes into operation. In the present case the appellant only sent a notice for commencement of D construction on 15.10.1985 and the same in our view does not fulfil the requirement of the notice which is contemplated under bye-law 6.7.4. in asmuch as intimation had already been given by DUAC seeking information. Apart from this the ban on the construction of multi-storeyed buildings came into operation from 17.10.1985 itself and in view of this E circumstance also there was no question of the applicability of deemed sanction in the facts of this case. It is not dispute that the building has been constructed without any sanction or permit from the D.D.A. as required under the building bye-laws and the building has been constructed at the risk of the appellant under the stay order of the High Court. Clause (B) F of the Appendix "q" of the building bye-laws, 1983 provides for compoundable items as under:–

COMPOUNDABLE ITEMS

G Deviations in terms of covered area – If a building or part thereof has been constructed unauthorisedly i.e. without obtaining the requisite building permit from the authority as required under clause 6.1 & 6.7.1 of the building bye-laws, the same shall be compounded at the following rates provided the building or part thereof so constructed otherwise conforms to H the provisions contained in the Building Bye-Laws and

Master/Zonal Plan regulations. For this party shall have to submit the request for building permit in the prescribed procedure". A

Thus under the above provision any building or part thereof constructed without obtaining the requisite building permit from the authority as required under clause 6.1 and 6.7.1 of the building bye-laws will be considered as a construction made unauthorisedly and the same can be compounded at the rates mentioned in clause (B). It is an admitted position in the present case that no building permit has been given to the appellants till now and as such they are bound to pay the compounding fee according to the rates prescribed in this regard. Thus we find no force in the contention of the appellant that they are not liable to pay any compounding fee. B C

(iv) So far as charging of interest on the compounding fee is concerned, we are definitely of the view that in the facts and circumstances of the case the D.D.A. is not entitled to charge any interest on the compounding fee. D

In the result we find no force in these appeals and we uphold the order of the High Court except with the modification that the D.D.A. is not entitled to charge any interest on the amount of compounding fee. It is further ordered that the directions given by the High Court shall now be carried out from the date of the Judgment of this Court instead of the date of the Judgment of the High Court. Thus except the abovementioned modifications, we uphold the order of the High Court as well as the directions given by it. There will be no order as to costs in this Court. E

V.P.R. Appeals Partly allowed.