

Government of UP

Industrial development Department; Section -4

No. 1767/ 77-4-24 /108 Appeal / 25

Lucknow: Dated 12.4.2025

M/s Viroma Infrastructure Pvt. Ltd. Applicant

Vs

NOIDA Authority Respondent

1. The present application has been filed by M/s Viroma Infrastructure Pvt Ltd (herein after referred to as "Applicant") in compliance to the directions dated 21-10-2024 of the Hon'ble High Court in WRIT-C No 8964/2024. The Court has directed the Revisional Authority to decide the representation within a period of 2 weeks.
2. The brief facts of the case are as follows: NOIDA Authority (herein after referred to as the "Respondent Authority") cancelled the plot allotted to the applicant bearing No 10, Sector 106, admeasuring 2000 sq m vide their cancellation order dated 29-03-2023. It is averred on behalf of the applicant that the said order is bad in law on the ground that the mandatory 3 months' notice requirement before cancelling the plot was not adhered to and that contrary to the observation of the respondent Authority, the Applicant had completed substantial construction work on the plot in question. It has been further argued by the Applicant that in the revision petition filed by the applicant under section 41(3) of UP Urban Planning & Development Act of 1973 against the cancellation order dated 29-03-2023, the relief being granted was inadequate and inconsistent with the relief granted to other similarly placed allottees; the judgements in some of such cases having been annexed with the instant application.
3. Heard Mr Ankitesh Agarwal, Advocate present in person on behalf of the applicant, Mr Nitin Gupta, Director M/s Viroma Infrastructure Pvt. Ltd. present through Video Conferencing (VC) and Ms Vandana Tripathi, ACEO NOIDA Authority present through VC.



4. The main issues that need to be decided are as under: -
- 1) Whether due procedure of serving a 3 months' notice as required by the Authority has been observed in the instant case, as per Section 7 sub-clause D of UP Industrial Area Development Act, 1976?
 - 2) Whether the relief granted by the Revisional Authority in the order dated 05-09-2024 is equitable considering the relief granted by the same Authority in other similar cases as cited by the applicant in support of his application?
5. It may not be out of place to mention that the plot was allotted to the applicant on 23-11-2006 for setting up an IT/ITES unit and lease deed was executed in favour of applicant on 17-01-2007. That the applicant failed to start construction activity on the leased plot for a period of over 7 years from the date of execution of lease deed/possession whereas the conditions of the lease deed section 13A required that the building be constructed and a completion certificate obtained from the Authority within a period of 3 years on the execution of the lease deed. The allottee is clearly in breach of this condition. Even after he started construction in 2014, he sought repeated extensions for completion which was duly granted by the Authority on payment of the applicable time extension charges. Clearly, both the Applicants as well as the Respondent Authority failed in complying to the conditions of the Lease Deed.
6. Be that as it may, taking note of the flagrant violation of lease conditions in this and other cases – the Government of UP issued an Ordinance dated 28.07.2020 (further continued vide notification 7th January 2022) requiring the defaulting allottees to ensure completion of construction on their respective plots by 28.07.2021. While replacing the said Ordinance with an Amendment Act on 7.6.22, the stipulation was that all those allottees defaulting on the construction criterion may ensure obtaining of completion certificates of their respective buildings by 31.12.2022, failing which their allotments shall stand cancelled and lease deed shall stand extinguished automatically.
7. Based on the policy decisions of the Government, the respondent authority issued notice to the applicant on 29.05.2021. The applicant acknowledges the service of this notice in which he was directed to ensure completion of the building by 27.07.21. the



applicant missed this deadline. However, the respondent authority gave another opportunity to the Applicant by granting the last such extension of time on 04-10-2022 and permitted him time till 31.3.2022 as required under the UPIADA Act Amendment as issued on 7th June 2022. However, even this opportunity was not utilized by the allottee and even till date the applicant's construction is not complete. It appears that the allottee has been sitting over this piece of land for an unduly long period in flagrant violations of the conditions of the lease; repeated notices of the authority and breach of the law laid down specifically in this regard.

8. Now, we come to the determination of the issues framed in para 4 above. It is true that *prima facie* it appears that the Respondent Authority did not comply with the three months' notice period in the final notice issued on 19.01.2023. However, a closer examination requires that the respondent authority had issued the notice to the applicant as far back as 27.05.2021 and clarified that if the allottee continues to remain in breach of the lease condition mentioned above, his allotment and lease deed would stand cancelled automatically and that no further time extension would be granted to him under any conditionality. A copy of the said notice has been filed on the record on behalf of the Respondent Authority. The respondents further permitted extended time for completion of project to the Applicant till 31.12.2022, in terms of the requirement of the amendment dated 7th June, 2022. It would be useful to outline the relevant clauses of the UP Industrial Area Development (Amendment) Act, 2022:

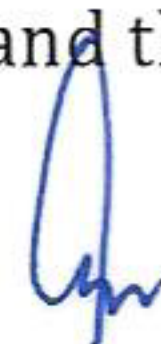
- *2(e) a notice has been given to by the Authority to such allottee at least three months prior to 31.11.2022 to utilize the said land by 31.12.2022 for the purpose for which it was allotted and apprising him of the consequences as mentioned hereafter of the failure to do so; and*
- *2(f) the allottee does not utilize the land by 31.12.2022; then the allotment and lease deed shall stand automatically cancelled and the allotted land shall vest with the Authority...*

9. Clearly, the notice was issued to the applicant as far back as 27.5.2021 and hence the contention of the applicant that three months' notice was not given to him cannot be sustained. The applicant was also clearly aware of this fact; not only because of the fact that the said Amendment Act was duly published in the official gazette, but also the fact that when the last extension was granted to the applicant while revalidating



his map in October 2022, the authority had clearly indicated that the deadline for completion was 31.12.2022. As per the letter of the law outlined in the above Act, the respondent authority was under no obligation to issue a fresh notice to the applicant, however they did issue the notice in good faith and that after observing that the breach of the conditions imposed by the Amendment Act continues to persist, they resorted to the extreme step of cancelling the plot upon the expiration of the deadline set by this notification. Since this was done prior to the extension of the deadline vide G.O. no 7779 dated 20-12-2023, I find no defect in the action taken by the respondent Authority. The issue therefore is decided against the Applicant.

10. The second issue to be decided as to what reliefs, if any, is the applicant entitled to on grounds of parity in respect of decisions in similarly placed cases. It is worth noting that under the provisions of the Amendment Act Clause 2(f), the allotment and lease deed of the Applicant stood automatically cancelled with effect from 31.12.2022. However, given that vide GO dated 29.12.2023, the State Government permitted all such IT/ITES allottees project completion time till 31-03-2024. Therefore, the Revisional Authority in his wisdom granted additional time in *pari passu* parity with other allottees for completion of his project. At present, the allottee has substantially completed his project and therefore no purpose would be served by cancelling the plot which would invite unnecessary and vexatious litigation and sub-optimal utilization of the building already constructed. Given the serial breaches of lease conditionalities by the applicant, in my view, he is not entitled to any other relief as prayed for; save what has already been granted by the Revisional Authority vide the order dated 05.09.2024. The Respondent Authority, has submitted a list of 14 similarly situated cases, where the plots have been restored with the levy of restoration charges. Thus there is no general principle, that should a plot be restored, it automatically amounts to waiving off of restoration charges. Admittedly, there have been some cases where restoration charges have been waived, but in the facts and circumstances of this particular case, given the serial defaults of the lease conditions on the part of the applicant, I am not inclined to consider their prayer favourably. This would set a wrong precedent of rewarding defaulters and result in defiance of legitimate orders passed by the Authority and the State Government.



11. Consequently, for the reasons outline above the Application is dismissed. No interference is warranted in the order of this Revisional Authority dated 05-09-2024, which may be complied with by all parties concerned.

Sd/-
(Alok Kumar)
Principal Secretary

Letter No. 1767/ 77-4-24 /108 Appeal / 25 Dated:

1. Chief Executive Officer, Noida
2. M/s Viroma Infrastructure Pvt. Ltd, G-38, Sector-3, Noida
3. Mohd. Wali Abbas, Director, I.T Invest U.P. – to upload it on Department's website.
4. Guard File.

Order by

(Jaybeer Singh)
Joint Secretary