

Government of UP

Industrial Development Department; Section -4

No. 2647/ 77-4-25 /31 Appeal/24

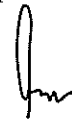
Lucknow: Dated 29.05.2025

M/s AIMS Sanya Developers Pvt. Ltd. .... Revisionist

Vs

NOIDA Authority ..... Respondent

1. The present revision petition has been filed u/s 41(3) of Uttar Pradesh Planning Act 1973 against the cancellation order dated 28-02-2020 passed by the Respondent Authority with a prayer that the impugned order be set aside and the authority may be directed to grant him the benefit of Zero -period on account of the injunction on construction, operative between 2013 to 2015, as per orders passed by the National Green Tribunal (NGT). The ground for the prayer is a claim of parity as per principles laid down by this Revisional Authority in a catena of judgements that have been annexed with this Revision Petition.
2. It would not be out of place to mention that the Revisionist had approached Hon'ble High Court in Writ C- 2349/2025 wherein the court had directed the Revisional Authority to decide the interim relief application before the next date of listing of the said case. In compliance of the directions of the Hon'ble High Court two hearings were conducted with respect to the present Revision Petition. The first being on 27-03-2025 and the next being on 11-04-2024.
3. The brief facts of the case are as under. The plot in dispute - C-171/1, Sector-15 Noida admeasuring 15,205.75 sq.m.- was allotted to the revisionist on 20-11-2011. The total premium of the said land was Rs 229,60,68,250 (Rupees Two Hundred Twenty Nine Crores Sixty Lakhs Sixty Eight Thousand Two Hundred Fifty Only) out of which 46,23,24,250 (Rupees Forty six crores twenty three lakhs twenty four thousand two hundred fifty only) was paid by the allottee before the execution of the lease deed . As per the mutual agreement between the parties, the balance Rs 183,37,44,000 (Rupees One hundred eighty-three crores thirty-seven lakhs forty-four thousand only) was to be paid in 16 half yearly instalments of Rs 11,46,09,000 (Rupees Eleven crores forty-six lakhs nine thousand only) per instalment plus an interest payable @ 11% thereon. As per the conditions of the




lease deed, the allottee/ revisionist was required to pay the dues on time [ clause I] and to construct the buildings and obtain the completion certificate from the Respondent Authority within 5 years from the date of execution of lease deed [ Clause II (i)]. Clause III (3) of the said lease deed expressly provided for cancellation of the plot in case of violation of the conditions of the lease on the part of the Lessee. For the sake of clarity, it would be useful to quote the provision *"if the Lessee does not abide by the terms and conditions of the lease and building bye-laws or any other rules framed or directions issued by the Lessor the lease may be cancelled by the Lessor and the possession of the demised premises may be taken over by the Lessor followed by forfeiture of deposits as per prevailing policy."*

4. Respondent Authority, in its response to the revision petition has contended that the Revisionist have repeatedly defaulted on the payments due to the Authority despite repeated reschedulements as well as provision of multiple opportunities as well as notices. They have further contended that the benefits with regard to no construction period due to NGT orders has also already been provided to the allottee as per the decision of the Authority Board. The Authority in its reply, countering the assertions of the Revisionist, has further argued that the allottee has been consistently and deliberately in breach of the lease conditions both on account of payment of dues as well as adherence to construction milestones. Satellite imagery has been submitted to show that there is no construction on the plot in question.
5. The main contention of the Revisionist is that the impugned order of the Respondent Authority is arbitrary since it does not consider the request for reschedulement of dues, grant of zero period on account of ban on construction activities due to an injunction order passed by NGT and non-grant of time extension. The thrust of the arguments submitted on behalf of the Revisionist is that the Authority did not dispose of his applications regarding recalculation of dues on account of the two-year zero period due to NGT ban on constructions whereas the same has been extended to many similarly placed allottees. He has further argued that the authority also did not permit him to mortgage the allotted property to his financiers; which has He has offered no other explanations for the dual default of the lease conditions on his part.



6. From the submission of the rival parties, it is clear that the main issue that needs determination is
  - a. Whether the Respondent Authority was negligent in disposing off the applications of the Revisionist; which led him to the default?
  - b. Whether the claim of the revisionist of parity as per principles laid down by this Revisional Authority in a catena of judgements is valid?
7. It is clear from the records that in regard to the NGT ban; the Authority's Board vide its policy dated 28.03.2016 had granted a zero period of 77 days on account of construction ban and waived off the penal interest for 2 years. The same relief was extended to the Revisionist and the Authority also informed the grant of this relief to the allottee vide their letter dated 05.06.2017. Since the revisionist has been granted relief as per the extant policy; no case of discrimination in granting of zero period benefits on account of NGT order is made out. Yet instead of settling the dues of the Authority, the Revisionist continued submitting representations claiming for greater relief on account of Zero -period, seeking reschedulements for instalments due time and again. And all this while, he made no attempt to start the construction on the project, as he was obliged to under the conditions of the lease deed. His permission for mortgage could not be considered because the clause II (g) of the lease deed expressly requires the lessee to "*have cleared upto date dues of the plot premium and lease rent*", which was evidently not done in this particular case. The Authority had sent multiple notices for payment dated 17-01-2017, 27-04-2017, 14-11-2017, 17-01-2018, 31-10-2018, 16-04-2019, 13-09-2019, 20-02-2020 and 05-03-2020. The Respondent was not forthcoming in settling his dues. Therefore, I find it difficult to agree with the Revisionist's contention that his application regarding NGT benefits has not been decided by the Authority. Rather the delinquency has largely been on part of the Revisionist/ Lessee. Given the material, repeated and continuing breach of Clauses I & II(i) of the lease deed that constitutes a binding agreement between the parties, no fault can be found with action of the Authority in invoking Clause III (3) of the Lease deed to cancel the plot vide their impugned order.
8. Let us now proceed to examine the claim of parity on the part of the Revisionist /Lessee as per the judgements of Revisional Authority annexed to the present Petition. Based on a careful scrutiny of the Judgements, I come to the conclusion



that the case of the revisionist is not identical with cases cited and therefore his claim for parity of treatment is untenable.

9. First and foremost, the plot in question is a **commercial plot** where as the cases cited by the revisionist relate to either **Group Housing Plots/ Industrial Plots** or **IT/ITeS** (Information Technology enabled Services). The respondent authority submitted that the policy for granting Zero Period is different in different categories; therefore, the claim of parity in Zero period benefits is unacceptable. The singular case that involves a commercial plot - that of 3C Properties Private Limited (Appeal No. 107/2024) - also has a group housing component as cited in para 33 of the Order. Moreover, as stated in the table of the para 12, the allottee **has in fact paid more to the Authority than the amount due to them**, unlike the instant case. Therefore, since the cases are not identical, prayer for identical relief is untenable.
10. Secondly, the Revisionist apart from filing the present revision petition is also in a parallel legal proceeding against the impugned order dated passed by the Respondent Authority bearing civil suit no 446/2020 . This case is currently being heard in the Court of the Civil Judge, Gautam Buddha Nagar. Since a civil court of competent jurisdiction is already seized of the matter, the ethicality and legality of the present proceedings are called to serious question. This fact alone distinguishes the present from all other cases whose judgements have been cited as having precedential value.
11. Lastly, if at all the claim of identity is to be entertained; it is not through the documents submitted by the Revisionist; but rather by a much more compelling piece of evidence submitted by the Respondent Authority. It so happens that the plot in dispute is a subdivision of original plot no C-171. The same was subdivided by the Authority order dated 25-05-2012 into two sub- plots namely C-171/1 and C-171/2. Despite similar constraints with respect to NGT order, C-171/2 is fully constructed and functional as contended by the Authority and also verified from the Satellite Imagery that are a part of the case records. So, even if we apply the parity criterion, the contention on behalf of the Revisionist cannot be sustained; rather it establishes that the Lessee/ revisionist has been in deliberate breach of the Lease conditions.

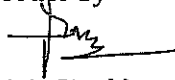


12. In light of the reasons laid out in paragraph 7-11, the revision petition fails- being devoid of merits- and is accordingly dismissed. The Authority has already repossessed the plot in question and may now proceed to dispose it off as per their established procedures subject only to the final orders Hon'ble High Court in Writ C- 2349/2025.

Sd/-  
(Alok Kumar)  
Principal Secretary

Letter No. 2647/ 77-4-25 /31 Appeal/25 Dated:

1. Chief Executive Officer, Noida
2. M/s AIMS Sanya Developers Pvt. Ltd
3. Director I.T. Invest U.P. – to upload it on Department's website
4. Guard File.

Order by  
  
(Jaivir Singh)  
Joint Secretary

