

# CENTRAL INFORMATION COMMISSION

Room No. 308, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

File No.CIC/LS/A/2009/000964

S.K. Wadhwa Vs DDA

Dated : 8.2.2010

This is in continuation of this Commission's proceedings dated 13.1.2010 wherein Shri Subhash Chopra, Director (Lands), DDA was directed to file an affidavit in the matter.

2. As scheduled, the matter is called for hearing today dated 8.2.2010. Appellant present. DDA is represented by Shri R.P. Garg, Dy. Director (Enf) Lands. He submits a copy of the 'affidavit' filed by Shri Subhash Chandra. It is noticed that the same has not been notarised and, therefore, technically, is not an affidavit in the eyes of law. Shri Garg submits that the affidavit could not be notarised due to paucity of time but he will get it done today itself and provide a copy to the appellant.

3. After perusal of the affidavit, the appellant would submit that it is a false affidavit inasmuch as the DDA had filed a report before the Standing Committee of Parliament on Urban Development wherein the Enforcement Department of DDA was held to be accountable for undetected violations of building bye laws. He would further submit that he had sent certain affidavit and other documents to DDA in 2006 and he wishes to have certified copies thereof.

4. To this, Shri Garg would submit that the file is not traceable.

5. Para 06 of Shri Subhash Chandra's affidavit is extracted below :-  
"6. In the meantime, the Delhi Law (Special Provision Act, 2006) was notified and an office order dated 2.6.2006 was issued by the Commissioner (Land Disposal), DDA to maintain the status-quo as on 1.1.2006 with regard to the punitive action against the violation i.e. mix land use, un-authorized construction and encroachment by Slum and JJ Dwellers, it was also directed in the said order that prosecution under Section 29 (2) of the Delhi Development Act, 1957 for misuse of various types of premises by the Enforcement Branch will be suspended in respect of the cases which were initiated after 1.1.2006 and relating to misuse initiated prior to 1.1.2006. Accordingly, with a view to honour the mandate of Law as provided in the Delhi Laws (Special Provision Act 2006) further action to seek sanction of prosecution and filing the formal complaint in the court of concerned Metropolitan Magistrate was not taken.

It is further submitted that provision of Delhi Laws (Special Provision Act, 2006) were extended from time to time and the provision of Delhi Law (Special Provision Act, 2006) have been extended till 31.12.2010. Therefore, no punitive action i.e.

prosecution of the person responsible for non-confirming use/misuse was possible due to operation of law, could be taken.”

A bare reading of the above passage would indicate that Shri Subhash Chandra has taken a categorical stand that because of the aforesaid law, DDA can not proceed against he violators of building bye laws.

6. The appellant, however, has assails this position but it is not for the Commission to go into the merits of the matter. The matter needs to be raised in the appropriate judicial forum by the concerned parties, if so advised.

### **DECISION**

7. In view of the above, the following decision is recorded :-

- (i) A copy of the duly notarised affidavit of Shri Subhash Chandra, Director (Land) may be provided to the appellant, free of cost; &
- (ii) Fresh efforts may be made to trace out the file containing the representations/affidavits submitted by appellant and the copies thereof may be provided to him, free of cost.
- (iii) Appellant may also be given inspection of the relevant file and to take extracts therefrom.

8. The matter is closed at the Commission's end.

Sd/-  
(M.L. Sharma)  
Central Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)  
Assistant Registrar

Address of parties :-

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