

RESERVED A.F.R.



2026:AHC-LKO:9698

Judgment Reserved On: 10.11.2025

Jugment Pronounce On: 09.02.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 8940 of 2025

Greater Noida Industrial Development Authority Thru. Auth. Signatory
Pramod Kumar

.....Petitioner(s)

Versus

State of U.P. Thru. Prin. Secy. Deptt. Infrastructure and Industrial Dev.
Lko. and another

.....Respondent(s)

Counsel for Petitioner(s)	: Sachin Upadhyay,
Counsel for Respondent(s)	: C.S.C., Apoorva Tewari, Siddharth Nandwani

Court No. - 17

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Upendra Nath Mishra, Senior Advocate assisted by Shri Sachin Upadhyay, Advocate, the learned counsel for the petitioner, Shri Rahul Shukla, the learned Additional Chief Standing Counsel for the State and Shri J.N. Mathur, Senior Advocate assisted by Shri Siddharth Nandwani, Advocate, the learned counsel for the respondent No.2.

2. By means of means of the instant writ petition filed under Article 226 of the Constitution of India the petitioner-Greater Noida Industrial Development Authority (hereinafter referred to as 'GNIDA') has challenged the validity of an order dated 19.10.2023, passed by the opposite party no.1 - the State Government, in Revision No.6430/77-4-

23/01 Appeal/23, under Section 41(3) of U. P. Urban Development and Planning Act, 1973 (Annexure No.3 to the petition), order dated 29.05.2024, passed by the opposite party no.1 in Case No.2836/77-4-24/01/Appeal/23, under Section 41(3) of U. P. Urban Development and Planning Act, 1973 (Annexure No.2 to the petition) and order dated 07.11.2024 (Annexure No.7 to the petition).

3. Briefly stated, the facts of the case are that in the year 2010 GNIDA had invited applications for allotment of land for developing residential township in Sector 16-C, Greater Noida (West) as per scheme code BRS03/2010. The tender submitted by M/s Mahagun India Private Limited (the opposite party no.2) was accepted and an allotment letter dated 19.08.2010 was issued in its favour. On 24.11.2010, GNIDA executed a lease-deed in favour of the opposite party no.2 in respect of land bearing plot No. GH-04, situated in Sector 16C, Greater Noida admeasuring 2,41,570 square meters, for a total premium of Rs.279,27,90,770/-. The opposite party no.2 paid Rs.27,92,79,077/- and the balance amount of premium was to be paid in instalments between the period 19.02.2011 and 19.08.2020. As per the terms and conditions of the lease, the opposite party no.2 was obliged to submit a building plan and the master plan showing the phases for execution of the project for approval within six months from the date of possession and it was required to commence construction within 12 months from the date of delivery of possession, which was the date of execution of the lease-deed. The project was to be completed in a maximum of five phases within a period of seven years from the date of execution of the lease-deed, which could be extended by three years, subject to payment of the stipulated time extension charges. Clause-4 of the lease-deed specifically provided that in case the lessee fails to complete the project within the aforesaid period, including the extended period of 10 years, the allotment and the lease shall be cancelled.

4. On 26.07.2011, GNIDA informed the opposite party no.2 that a correction deed was required to be executed, changing the leased area

from 2,41,570 square meters to 1,45,737.80 square meters and the correction deed was executed on 22.04.2014. On 05.05.2014, physical possession of the leased land was handed over to the opposite party no.2 and a possession certificate was issued.

5. On 10.05.2016, the opposite party no.2 wrote a letter to GNIDA, stating that out of the revised area of 1,45,737.80 square meters, physical possession of only 1,37,400.80 square meters had been handed over to it and possession of 8,337 square meters of land had not been delivered to the lessee because of some pending litigation. Subsequently, possession of land bearing khasra no.189, measuring 3,070 square meters and khasra no.257, measuring 950 square meters (totalling to 4,020 square meters), was given to the lessee, but physical possession of land bearing khasra no. 192, measuring 4,317 square meters was not delivered to the lessee. The lessee stated that GNIDA was not entitled to charge any interest on the outstanding amount till possession of the entire leased land was handed over to it.
6. On 28.10.2016, the opposite party no.2 submitted a drawing of the project for approval of GNIDA. On 23.01.2017, the opposite party no.2 moved an application for extension of time for completion of the project by allowing an initial three years' period and zero period for construction and completion of a minimum 15% area, and paid Rs.50,56,625/- as time extension fee. On 30.01.2017, GNIDA sent a letter to the opposite party no.2, informing that the zero period from 12.05.2011 till 24.08.2012 (470 days) had been granted. It was stated in the letter that the time for completing the first phase stood expired on 09.03.2015 and the first phase of the project ought to have been completed by 07.11.2016. Paid time extension for completion of the first phase of the project was granted till 09.03.2017.
7. On 09.10.2016 GNIDA approved the development plan for the total plot area measuring 1,45,737.80 square meters, which was valid for a period of five years.

8. On 23.02.2017 the petitioner issued a partial occupancy certificate for 10 towers constructed by the opposite party no.2. On 07.03.2017 the opposite party no.2 requested for execution of sub-lease-deeds in favor of the allottees. On 19.04.2017 GNIDA issued a letter to the opposite party no.2 demanding payment of the pending dues. On 25.01.2018, an allottee of the opposite party no.2 filed a complaint before GNIDA, stating that the opposite party no.2 was executing conveyance deeds in respect of areas exceeding the area approved by GNIDA in the partial occupancy certificate. On 09.02.2018, GNIDA issued an occupancy certificate in respect of 1649 units in nine residential blocks and commercial blocks to the opposite party no.2.
9. The opposite party no.2 filed an application before the Additional District Magistrate (Finance and Revenue), Gautam Buddha Nagar, for refund of excess stamp duty paid by it, which application was rejected by means of an order dated 21.08.2018. The opposite party no.2 challenged the order dated 21.08.2018 by filing Writ-C No. 36468 of 2018 before this Court sitting at Allahabad. The aforesaid writ petition was disposed off by means of an order dated 01.11.2018 by providing that the opposite party no.2 may file an application before the Joint Secretary, Government of Uttar Pradesh, Lucknow, who shall re-adjudicate the matter regarding refund of stamp duty in view of the law laid down by the Hon'ble Supreme Court in the judgment of ***Committee-GFIL Versus. Libra Buildtech Private Limited and others*** reported in (2015) 16 SCC 31 and the order dated 28.05.2018 passed by this Court in Writ-C No. 16639 of 2018.
10. On 22.08.2019, GNIDA issued a notice to the opposite party no.2, stating that it had committed default in payment of Rs.32,36,93,305/-. The letter informed them that a policy for re-scheduling the dues was in vogue and in case the petitioner wanted to avail the benefit under the policy, he could submit an application until 31.08.2019. The letter asked the petitioner to deposit the balance amount by 31.08.2019 or to apply

for re-scheduling the payment of dues, failing which proceedings for the cancellation of the lease would be initiated.

11. On 23.12.2019, opposite party no.2 gave a letter to GNIDA stating that the area of land allotted and leased and the amount payable by the lessee was altered and adjusted by GNIDA and the opposite party no.2 had not been handed over possession of the entire land area as per the allotment letter and the initial lease-deed. The affected area was more than 30% of the total area allotted, which had effected the project planning, execution and cash flow of the company and, therefore, the opposite party no.2 was eligible for getting the zero period benefit as per the policy. The opposite party no.2 requested that approval be accorded for a zero-interest period from day one i.e. 19.08.2010 to 05.05.2014 (the date of handing over possession).
12. In this regard, the contention of GNIDA is that land measuring 1,45,737 square meters had been allotted and handed over to the opposite party no.2 on 05.05.2014. The demands had been revised accordingly, the amount already deposited had been adjusted and the balance amount was payable in 16 half-yearly instalments. The opposite party no.2 had already been granted the benefit of a zero period from 12.05.2011 till 24.08.2012 by means of a letter dated 30.01.2017. GNIDA claims that the lessee was not entitled to any further benefit of zero period. GNIDA issued a notice dated 31.01.2020 directing the opposite party no.2 to pay the pending lease premium and stating that in case of failure of the opposite party no.2 to pay the amount, its lease shall be cancelled.
13. The opposite party no.2 filed Writ-C No. 6647 of 2020 before this Court sitting at Allahabad, regarding refund of stamp duty. On 03.03.2020, this Court passed an order in the aforesaid writ petition directing the State and GNIDA to file counter affidavits clarifying as to whether the State of U.P. or GNIDA is the authority responsible for refund of the proportionate amount of stamp duty.

14. On 14.12.2022, GNIDA issued a demand notice regarding lease premium and lease rent calculated till 15.12.2022, amounting to Rs.1,06,78,71,600.15. The opposite party no.2 filed a revision under Section 41(3) of the U.P. Urban Planning and Development Act, 1973, read with Section 12 of the Greater Noida Industrial Development Authority Act with the following prayers: -

"I. To issue a suitable order or direction calling for the record and quashing the impugned order dated 14.12.2022 passed by the respondent authority vide letter No. ग्रे. नौ. बिल्डर्स/2022/4307.

II. To issue a suitable order or direction directing the respondent to pay excess stamp duty amounting to Rs.6,14,18,000/- (Rupees Six Crores Fourteen Lakhs Eighteen Thousand only) alongwith interest @ 18% p.a. calculated w.e.f. 25.11.2010 till actual payment to petitioner;

III. To issue a suitable order or direction directing the respondent authority to declare the period from 2011 to 2015 as 'zero period' due to farmer agitation, subsequent waiver of the entire interest of the zero period and adjustment with principal amount of the land premium paid to Respondent for plot no. GH-04, Sector-16C, Greater Noida (WEST) and reschedule the payment plan of the said plot of land as the entire project of the petitioner company was stalled without any fault of the petitioner, firstly due to farmer agitation, and Secondly due to inaction of Greater Noida Industrial Development Authority (GNIDA) in regard to repeated request for Zero period;

IV. To issue a suitable order or direction directing the respondent authority to declare the period from 15-03-2020 to 25-09-2020 as 'zero period' due to outbreak of Noval Corona Virus (COVID-19), subsequent waiver of the entire interest of the zero period and adjustment with principal amount of the land premium paid to Respondent for plot no. GH-04, Sector-16C, Greater Noida (West);

V. To issue a suitable order or direction directing the respondent authority to declare the period from 01-04-2021 to 30-06-2021 as 'zero period' due to second wave of Covid-19 as a force majeure event and subsequent waiver of the entire interest of the zero period sand adjustment with principal amount of the land premium paid to Respondent for plot no. GH-04, Sector-16C, Greater Noida (West);

VI. To issue a suitable order or direction. directing the respondent authority to declare the period from 10-06-2020 to 07-11-2022 as 'zero period' due to pending litigation between authority and the

builders in Supreme Court in WP (C) No. 940 of 2017 Bikram Chatterji & Anr Vs Union of India, subsequent waiver of the entire interest of the zero period and adjustment with principal amount of the land premium paid to Respondent for plot no. GH-04, Sector-16C, Greater Noida (West);

VII. Issue appropriate orders for awarding damages for the financial loss and loss of time suffered by the petitioner;

VIII. Pass such other and further orders as this Hon'ble Authority may deem fit and property in the facts and circumstances of this case."

15. GNIDA filed objections against the revision *inter alia* stating that the petitioner had already been granted the benefit of zero period from 12.05.2011 to 24.08.2012 and the instalments payable after the zero period were postponed by six months each. The petitioner had submitted a representation dated 24.12.2019 for being given the benefit of zero period in terms of the Government Order dated 05.12.2019, which was examined by a committee. The committee recommended that after the Hon'ble Supreme Court cancelled the acquisition of land in village Shahberi, 95,832.20 square meters of land was affected and only 145,737.80 square meters of land remained to be allotted. GNIDA had communicated with the opposite party no.2 for execution of a declaration/correction deed on 26.07.2011, but the allottee caused a delay in execution of the deed till 22.04.2014. As the delay in execution of the declaration/correction deed has been caused by the allottee, it is not entitled to get the benefit of time extension. It is specifically stated in its reply that plot no. GH04, Sector C, allotted to the opposite party no.2, consists of lands bearing Khasra numbers 190, 192, 261, 262, 263, 266, 255, 253, 252, 251, 249, 248, 269, 290, 271, 272, 274, 275, 270, 268, 245, 246, 243 and 250 situated in village Chipiana Khurd and as per a report dated 22.01.2020 submitted by the legal department of the authority, no writ petitions were pending regarding the aforesaid lands.

16. The report submitted by the committee further stated that the building plan was approved on 12.05.2016 and the completion certificate of 1802 flats constructed in 10 towers in the first phase of the project

was issued on 23.02.2017, which shows that constructions had been raised till that date.

17. The revision was allowed by the impugned order dated 19.10.2023, passed by the State Government holding that although the land was allotted to the opposite party no.2 and a lease-deed was executed on 24.11.2010, as the acquisition of land in village Shahberi was quashed by the Hon'ble Supreme Court a supplementary lease-deed was executed on 29.04.2014 reducing area of the leased land. This High Court had also quashed the acquisition of a part of the land by an order dated 12.05.2011. In these circumstances, it was not possible to raise any construction on the land. The land allotted to the opposite party no.2 got affected by the orders passed by the Court due to fault of the GNIDA and there was no fault of the allottee in it and, therefore, the allottee is entitled to be granted zero period benefit till execution of the supplementary deed on 29.04.2014. The revisional authority further held that the High Court had passed a stay order dated 16.03.2016 in respect of 9,937 square meters area of the allotted land, which continued to remain operative till 04.08.2017 and declared zero period for the aforesaid area for the aforesaid period. The revisional authority further ordered that the allottee will be entitled to a reduction of the interest rate as per the Government Order dated 09.06.2020 and zero period for the Covid-19 pandemic in furtherance of the Government Order dated 20.07.2022. The revisional authority directed GNIDA to ensure refund of the amount of excess stamp duty in compliance with the Government Order dated 25.06.2019. The revisional authority set aside the notice dated 14.12.2022, directed the GNIDA to recalculate the dues of the opposite party no.2 and directed the opposite party no.2 to deposit 25% of the amount of dues within one month and to pay the balance amount in four six-monthly instalments.

18. GNIDA has contended that Writ-C No.6647 of 2020 filed by the opposite party no.2 regarding refund of excess amount paid as stamp duty is still pending consideration of this Court sitting at Allahabad and

this fact was concealed by the opposite party no.2 and the State Government has passed the impugned order dated 23.10.2023 directing refund of the amount of stamp duty ignoring the fact of pendency of writ petition regarding the aforesaid prayer. Placing reliance on a judgment of the Hon'ble Supreme Court in the case of **Bhaskar Laxman Jadhav and others Vs. Karamveer Kakasaheb Wagh Education Society and others**: (2013) 11 SCC 531, the learned Counsel for GNIDA has submitted that a person who indulges in misleading, concealing and clever drafting is guilty of fraud and is not entitled to invoke the jurisdiction of any Court of law.

19. The petitioner has also placed reliance on a judgment of Hon'ble Supreme Court in the case of **Meghmala Vs. J. Narssimha Reddy**: (2010) 8 SCC 383 in which the Hon'ble Supreme Court has observed as under: -

“28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eyes of law. "Fraud avoids all judicial acts ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. & Ors. AIR 1994 SC 853). In Lazarus Estate Ltd. Vs. Besalay 1956 All. E.R. 349), the Court observed without equivocation that “no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything.”

* * *

33. Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of Courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression “fraud” involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide Dr. Vimla Vs. Delhi Administration AIR 1963 SC 1572; Indian Bank Vs. Satyam Fibres (India) Pvt. Ltd. (1996) 5 SCC 550; State of Andhra Pradesh Vs. T. Suryachandra Rao AIR 2005 SC 3110; K.D. Sharma Vs. Steel Authority of India Ltd. & Ors. (2008) 12 SCC 481; and Regional Manager, Central Bank of India Vs. Madhulika Guruprasad Dahir & Ors. (2008) 13 SCC 170).

34. An act of fraud on Court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the Court. (Vide S.P. Changalvaraya Naidu (supra); Gowrishankar & Anr. Vs. Joshi Amba Shankar Family Trust & Ors. AIR 1996 SC 2202; Ram Chandra Singh Vs. Savitri Devi & Ors. (2003) 8 SCC 319; Roshan Deen Vs. Preeti Lal AIR 2002 SC 33; Ram Preeti Yadav Vs. U.P. Board of High School & Intermediate Education AIR 2003 SC 4628; and Ashok Leyland Ltd. Vs. State of Tamil Nadu & Anr. AIR 2004 SC 2836).

36. From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of res judicata are not attracted. Suppression of any material fact/document amounts to a fraud on the Court. Every Court has an inherent power to recall its own order obtained by fraud as the order so obtained is non est."

20. On 28.12.2023, GNIDA filed an application before the State Government for review of the order dated 19.10.2023 and it filed another application dated 01.03.2024 for recalling the order dated 19.10.2023 *inter alia* stating that the revisional authority had not taken into consideration the fact that the zero period benefit had already been granted to the opposite party no.2 and further, that there was no stay order passed in respect of the plot in question. This application was decided by means of an order dated 29.05.2024 recalling the direction for declaring zero period from 16.03.2016 to 04.08.2017 in respect of 9,937 square meters land as there was no stay order operating in respect of the said land. The remaining pleas of GNIDA were rejected.

21. GNIDA filed yet another application for review of the order dated 29.05.2024 which was rejected by means of an order dated 07.11.2024

passed by the State Government stating that the original allotment was made in favour of the opposite party no.2 on 24.11.2010. A supplementary deed was executed on 29.04.2014 because acquisition of 95,832.20 square meters was affected by means of an order passed by the Hon'ble Supreme Court. The land could not be demarcated immediately and it has been demarcated by letters dated 17.04.2012, 08.07.2013, and 04.02.2014, issued by GNIDA. Thereafter, a declaration deed was executed on 22.04.2014, it was registered on 29.04.2014 and a possession certificate in respect of the revised land area was issued. It does not appear that the opposite party no.2 has caused a delay in the matter and, therefore, a zero period was declared from 24.11.2010 till 22.04.2014. The revisional authority directed GNIDA to ascertain the benefits to which the opposite party no.2 is entitled. The Revisional Authority clarified that in case the allottee has deposited any excess amount, the same would not be refunded to it in furtherance of the order dated 07.11.2024.

22. Assailing the validity of the aforesaid orders, the learned counsel for the petitioner has submitted that all the orders passed by the revisional authority are without jurisdiction as Section 41 (3) of the U.P. Urban Planning and Development Act provides for filing revision against orders by which any case is decided. He has submitted that it has been held by a Division Bench of this Court in the judgment dated 30.05.2022, passed in the case of **M/s Apace Buildltech Private Limited Vs. State of U.P. and two others**: Writ-C No. 3010 of 2022, that the condition precedent for the State Government to exercise its powers under Section 41 (3) of the Act of 1973 is that there has to be a record of a case disposed off or there has to be an order passed by the Authority/Chairman. In the absence of any case disposed of or an order passed by the authority/Chairman, the State Government is not vested with the powers of revision. The demand notice cannot be termed to be a case disposed off or an order passed by the Authority and a revision filed under Section 41 (3) of the U.P. Urban Planning and Development Act against a demand notice will not be maintainable.

23. The second submission of the learned counsel for the petitioner is that Section 41(3) of the Act of 1973 makes it mandatory to provide an opportunity of hearing before any order is passed, but the order dated 29.05.2024 has been passed without giving an opportunity of hearing to the petitioner.
24. The learned counsel for the petitioner has next submitted that in the order dated 27.03.2025, passed in Case No.1508/77-4-25-53-Appeal 2023 titled **M/s Easter Agro Products Industries Private Limited Vs. UPCIDA, Lakhanpur, Kanpur**, the revisional authority itself has held that an application for review of an order passed in revision is not maintainable. In the judgment dated 21.05.2025, passed by a Division bench of this Court in **M/s Eco Green Build Tech Private Limited Vs. State of U.P.** Writ-C No. 26214 of 2020 (Neutral Citation 2025AHC-LKO-30241-DB) it has been held that the revisional authority has no jurisdiction to review its order.
25. The learned counsel for the petitioner GNIDA has submitted that all the orders passed by the revisional authority are without jurisdiction.
26. The opposite party no.2 has raised a preliminary objection that the writ petition suffers from the latches.
27. Upon this objection being raised, the petitioner filed a supplementary affidavit stating that the order on the second review application was passed on 07.11.2024. The opposite party no.2 preferred an application dated 10.02.2025 seeking approval of occupancy certificate and sub lease-deed for proportionate area of the project. A payment intimation notice was issued to the opposite party no.2 on 17.02.2025 and thereafter the file was sent to the Finance Department of the petitioner authority for obtaining approval for filing of the writ petition. Thereafter opinion of a Chartered Accountant was obtained, who initially gave an opinion without considering the zero period policy. Therefore, the matter was again sent to the Chartered Accountant. Upon

examination of the documents and opinions, it was found that the petitioner authority stands at the risk of suffering loss to the tune of Rs.149.93 Crores and, therefore, guidelines/reconsideration of the State Government was sought. A letter for review was prepared, but the same was retracted as the petitioner authority decided that the State Government does not have the power to review its orders passed under Section 41(3) of the U.P. Urban Development and Planning Act, 1973. In June, 2025 the petitioner authority again sought legal opinion in the matter and thereafter the petitioner's counsel advised that a writ petition should be filed after the summer vacations challenging the order dated 19.10.2023, passed by the State Government on the ground that the demand notice should not be construed as an order as per the order dated 30.05.2025, passed by a Division Bench of this Court in the case of *M/s Apace Buildltech Private Limited Vs. State of U.P. and two others*: 2022:AHC-LKO:30003-DB.

28. In the counter affidavit filed by the opposite party no.2 it has been stated that the demand notice dated 14.12.2022 was in the nature of a final order as the petitioner had made quantification of the alleged liability of the opposite party no.2 and had demanded the quantified amount, failing which coercive measures would be taken against it. This is not a demand notice and this is final order of demand coupled with a threat of coercive measures in case of non-compliance with the order. Therefore, the writ petition is maintainable. Regarding the petitioner's plea of non-maintainability of the revision and the review applications on the ground of lack of jurisdiction the opposite party no.2 has stated that these pleas were never raised by the petitioner before the revisional authority. The petitioner cannot be permitted to raise new pleas for the first time before this Court which pleas were not raised either in the revision or in the two review applications filed by the petitioner itself. The opposite party no.2 has further stated that although the review applications filed by the petitioner were not maintainable, para 17 of the impugned order dated 19.10.2023 was modified by the revisional authority on the basis of concession/ undertaking given by the opposite

party no.2 as it did not intend to join issue with the petitioner authority and to put a quietus to the disputes in the interest of allottees of the project who are still awaiting execution of the sub lease-deeds in their favour, which has been withheld owing to the continuing disputes between the petitioner and the opposite party no.2.

29. In reply to the objection regarding maintainability of the Revision, the learned Counsel for the opposite party has relied upon a judgment of the Hon'ble Supreme Court in the cases of **Siemens Ltd. v. State of Maharashtra**: (2006) 12 SCC 33 and a judgment rendered by a Single Judge Bench of this Court in **Harjinder Singh Vs. State of U. P.**: 2011 SCC OnLine All 2094.

30. In **Siemens Ltd. v. State of Maharashtra** (supra), the Hon'ble Supreme Court held that: -

“9. Although ordinarily a writ court may not exercise its discretionary jurisdiction in entertaining a writ petition questioning a notice to show cause unless the same inter alia appears to have been without jurisdiction as has been held by this Court in some decisions including State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179], Special Director v. Mohd. Ghulam Ghouse [(2004) 3 SCC 440] and Union of India v. Kunisetty Satyanarayana [(2006) 12 SCC 28], but the question herein has to be considered from a different angle viz. when a notice is issued with premeditation, a writ petition would be maintainable. In such an event, even if the court directs the statutory authority to hear the matter afresh, ordinarily such hearing would not yield any fruitful purpose. (See K.I. Shephard v. Union of India [(1987) 4 SCC 431]. It is evident in the instant case that the respondent has clearly made up its mind. It explicitly said so both in the counter-affidavit as also in its purported show-cause notice.

10. The said principle has been followed by this Court in V.C., Banaras Hindu University v. Shrikant [(2006) 11 SCC 42], stating:

“48. The Vice-Chancellor appears to have made up his mind to impose the punishment of dismissal on the respondent herein. A post-decisional hearing given by the High Court was illusory in this case.

49. In *K.I. Shephard v. Union of India* [(1987) 4 SCC 431 : 1987 SCC (L&S) 438 : AIR 1988 SC 686] this Court held: (SCC p. 449, para 16)

‘It is common experience that once a decision has been taken, there is a tendency to uphold it and a representation may not really yield any fruitful purpose.’ ”

(See also *Shekhar Ghosh v. Union of India* [(2007) 1 SCC 331 : (2006) 11 Scale 363] and *Rajesh Kumar v. D.C.I.T.* [(2007) 2 SCC 181 : (2006) 11 Scale 409])

11. A bare perusal of the order impugned before the High Court as also the statements made before us in the counter-affidavit filed by the respondents, we are satisfied that the statutory authority has already applied its mind and has formed an opinion as regards the liability or otherwise of the appellant. If in passing the order the respondent has already determined the liability of the appellant and the only question which remains for its consideration is quantification thereof, the same does not remain in the realm of a show-cause notice. The writ petition, in our opinion, was maintainable.”

(Emphasis added)

31. In **Harjinder Singh v. State of U.P.**: (Supra), a Single Judge Bench of this Court held that: -

“10. ... it is apparently clear that a wide power has been conferred upon the State Government to act suo-moto or on an application by a person and to call for the records for satisfying itself with regard to legality or propriety of any order passed or direction issued by the Development Authority or its Chairman. The State Government has been conferred a power to issue such directions in the matter under Section 41(3) as it may deem fit.

11. In the opinion of the Court, the power conferred upon the State Government under Section 41(3) is wide enough to entitle it to examine the propriety of the demand of Rs. 22,16,640/- as compounding fee on the plea raised by the present petitioner that it was exorbitant. It is for the State Government to satisfy itself whether in the fact of the case such demand of compounding fee is legal and proper or not and to issue such direction as it may deem fit.

12. Since the State Government has failed to exercise its powers vested in it under Section 41(3) of the Act 1973. The order impugned dated 12.12.2011 cannot legally be sustained. It is held that the State Government is not correct in holding that the revision-petition as filed against the order of the Vice-Chairman demanding the compounding fee, was not maintainable. The order

is, therefore, set aside. The revision is restored to its original number.”

32. **M/s Apace Buildltech Private Limited Vs. State of U.P. and two others:** Writ-C No. 3010 of 2022 had been filed challenging the demand notices and an order dated 28.10.2020 passed by the State Government in purported exercise of its revisional powers vested in it under Section 41(3) of the U.P. Planning and Development Act read with Section 12 of U.P. Industrial Area Development Act, 1976. The petitioners had sought a direction to the respondent-New Okhla Industrial Development Authority to decide the claim of Zero Period. The order dated 28.10.2020 was challenged on the ground that an opportunity of hearing was not provided to the petitioner and the order was passed in violation of the principles of natural justice. This Court accepted this submission and held that adequate opportunity of hearing was not provided to the petitioner. Having observed this, the Court further noticed that if the order dated 28.10.2020 was quashed for the reason of non-observance of the principles of natural justice, the matter will have to be remitted to the State Government for decision of the revision petition afresh. The Division Bench held that *“The demand notice dated 17.01.2018, in our considered opinion, cannot be termed to be a case disposed of or an order passed by the Noida authority. In this view, the revision petitioner under Section 41(3) of the Urban Planning and Development Act against the demand notice dated 17.01.2018 is not maintainable.”* Yet, the Division Bench did not quash the order passed in revision holding that *“no fruitful purpose would be served even if we quash the order passed by the State Government on 18.10.2020. (sic: 28.10.2020)”*

Regarding the prayer for issuing a direction to the Noida Authority for deciding the petitioner’s claim in respect of Zero Period Policy, this Court found that the petitioner’s claim for benefit of Zero Period Policy had not been rejected. Therefore, this Court disposed off the writ petition with a direction to New Okhla Industrial Development Authority to take

a reasoned decision on the claim of the petitioner in respect of the Zero Period Policy.

33. Thus it is significant to note that the judgment of the Hon'ble Supreme Court in the case of **Siemens Ltd. v. State of Maharashtra** (Supra) was not placed before the Division Bench deciding the case of **Apac Buildtech** (Supra) and, therefore, it has not been taken into consideration by the Division Bench. In the case of **Apac Buildtech** the revision had been allowed without giving an opportunity of hearing to the petitioner. Although this Court held that the revision against the notice was not maintainable, this Court did not quash the order allowing the revision, as it would not serve any useful purpose. Another significant fact in that case was that the authority had not taken any final decision regarding the claim of the builder for zero period. In the present case, the authority has already taken a final decision rejecting the builder's claim of zero period, like it was the case in the case of **Siemens Ltd. v. State of Maharashtra** (supra). The petitioner GNIDA had filed detailed objections against the revision and it did not submit that the revision was not maintainable. On 28.12.2023, GNIDA filed an application for review of the order dated 19.10.2023 and it filed another application dated 01.03.2024 for recalling the order dated 19.10.2023 *inter alia* stating that the revisional authority had not taken into consideration the fact that the zero period benefit had already been granted to the opposite party no.2 and further, that there was no stay order passed in respect of the plot in question. This application was decided by means of an order dated 29.05.2024 recalling the direction for declaring zero period from 16.03.2016 to 04.08.2017 in respect of 9,937 square meter land as there was no stay order operating in respect of the land. Even in review, GNIDA did not contend that the revision was not maintainable. Thereafter GNIDA filed yet another application for review of the order dated 29.05.2024 and even in this application it was not contended that the revision was not maintainable.

34. After having submitted to the jurisdiction of the revisional authority and having contested the revision on its merits and after itself having filed two successive applications for review of the order passed in revision, the petitioner has contended before this Court for the first time in this petition which has been filed on 09.09.2025, i.e. about two years after the order passed in revision, about ten months after the order passed in the second review application filed by GNIDA, that the revision and the review applications were not maintainable. This plea has been raised on legal advice keeping in view the fact that the order of the revisional authority would cause financial loss to the petitioner.
35. Keeping in view the aforesaid facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the case of **Siemens Ltd. v. State of Maharashtra** (supra), and the view taken by the Single Judge Bench in **Harjinder Singh v. State of U.P.**: (Supra), that the power conferred upon the State Government under Section 41(3) is wide enough to examine the propriety of a demand, which view is in consonance with the principle laid down by the Hon'ble Supreme Court in **Siemens Ltd. v. State of Maharashtra** (supra), I reject the contention of the petitioner that the revision filed by the opposite party no. 2 under Section 41(3) of the U. P. Urban Planning and Development Act was not maintainable. However, I find force in the submission of the learned Counsel for the petitioner that the revisional authority has no power to review its orders. The learned Counsel for the opposite party no. 2 has also not opposed submission and he has submitted that the opposite party no. 2 had not opposed the maintainability of the successive review applications filed by the petitioner to give a quietus to the dispute.
36. The learned counsel for the petitioner has submitted that the revisional authority has decided the revision without giving an opportunity of hearing to the petitioner, however, the record reveals that the petitioner had filed detailed objections against the revision, which have been taken into consideration while deciding the revision and have been dealt with appropriately. Therefore, I find no force in the

submission of the learned counsel for the petitioner that the impugned revisional order has been passed without giving an opportunity of hearing to the petitioner.

37. Now I proceed to examine the validity of the revisional order on its merits. GNIDA had invited applications for allotment of land for developing residential township in the year 2010. An allotment letter was issued in favour of the opposite party no.2 on 19.08.2010. GNIDA had executed a lease-deed in favour of the opposite party no.2 on 24.11.2010, in respect of land bearing plot No. GH-04, situated in Sector 16C, Greater Noida admeasuring 2,41,570 square meters.
38. On 26.07.2011, GNIDA informed the opposite party no.2 that a correction deed was required to be executed reducing the leased area from 2,41,570 square meters to 1,45,737.80 square meters and the correction deed was executed on 22.04.2014. Thus the leased area was decreased by about 40%. A certificate of handing over physical possession of the leased land was issued on 05.05.2014.
39. On 10.05.2016, the opposite party no.2 wrote a letter to GNIDA, stating that out of the revised area of 1,45,737.80 square meters, physical possession of only 1,37,400.80 square meters had been handed over to it and possession of 8,337 square meters of land had not been delivered to the lessee because of some pending litigation. Subsequently, possession of land bearing khasra no.189, measuring 3,070 square meters and khasra no.257, measuring 950 square meters (totalling to 4,020 square meters), was given to the lessee, but physical possession of land bearing khasra no. 192, measuring 4,317 square meters was not delivered to the lessee. The lessee stated that GNIDA was not entitled to charge any interest on the outstanding amount till possession of the entire leased land was handed over to it.
40. GNIDA claims to have granted the benefit of a zero period from 12.05.2011 till 24.08.2012. On the claim of the opposite party no. 2 for

zero period benefits, GNIDA claims that it had informed the opposite party no.2 about the requirement for execution of a declaration/correction deed on 26.07.2011, but the opposite party no. 2 has caused the delay in the execution of the deed till 22.04.2014.

41. The revisional authority held that although the lease-deed was executed on 24.11.2010, a supplementary lease-deed was executed on 29.04.2014, reducing the area of the leased land by about 40%. The opposite party no. 2 is not at fault for the substantial decrease in the area leased out by GNIDA. The opposite party no.2 would suffer for the delay in finalisation of the area of the project, as it would have an adverse impact on the planning and completion of the project. Therefore, the opposite party no. 2 is entitled to be granted the benefit of zero period till execution of the supplementary deed on 29.04.2014. I find no error or illegality in this recommendation of the committee. The revisional authority further held that the High Court had passed a stay order dated 16.03.2016 in respect of 9,937 square meters area of the allotted land, which continued to remain operative till 04.08.2017 and declared zero period for the aforesaid area for the aforesaid period. The revisional authority further ordered that the allottee will be entitled to a reduction of the interest rate as per the government order dated 09.06.2020 and zero period for the Covid-19 pandemic in furtherance of the Government Order dated 20.07.2022. The revisional authority directed GNIDA to ensure refund of the amount of excess stamp duty in compliance with the Government Order dated 25.06.2019.

42. The revisional authority set aside the notice dated 14.12.2022, directed the GNIDA to recalculate the dues of the opposite party no.2 and directed the opposite party no.2 to deposit 25% of the amount of dues within one month and to pay the balance amount in four six-monthly instalments. However, as refund of the excess amount paid as stamp duty is still pending consideration of this Court sitting at Allahabad in Writ-C No.6647 of 2020 filed by the opposite party no.2, the direction passed by the revisional authority for refund of the amount

of stamp duty ignoring the fact of pendency of writ petition regarding the aforesaid prayer is unsustainable in law.

43. On the first review application filed by GNIDA, the revisional authority has recalled the direction for declaring zero period from 16.03.2016 to 04.08.2017 in respect of 9,937 square meters land as there was no stay order operating in respect of the land. On the second review application filed by GNIDA, the revisional authority has directed GNIDA to ascertain the benefits to which the opposite party no.2 is entitled and in case the allottee has deposited any excess amount, the same would not be refunded to it in furtherance of the order dated 07.11.2024.
44. The original allotment was made in favour of the opposite party no.2 on 24.11.2010. A supplementary deed was executed on 29.04.2014 and registered on 29.04.2014 and a possession certificate in respect of the revised land area was issued on 05.05.2014, as has been pleaded by GNIDA itself in para 37 of the Writ Petition. Execution of lease deed in respect of land in respect of which it has been held that GNIDA had no right to transfer and subsequent execution of a correction deed decreasing the land area, was without any fault of the opposite party no. 2. The lessee could not even prepare a development plan, what to say about execution of the plan, till a possession certificate in respect of the revised land area was issued on 05.05.2014. Therefore, the revisional authority has not committed any error or illegality.
45. Accordingly, the petition is allowed. The orders dated 29.05.2024 (Annexure No.2 to the petition) and 07.11.2024 (Annexure No.7 to the petition) passed by the Revisional Authority on the review applications filed by the petitioner are set aside. The finding recorded in the order dated 19.10.2023, passed by the opposite party no.1 - the State Government, in Revision No.6430/77-4-23/01 Appeal/23, under Section 41(3) of U. P. Urban Development and Planning Act, 1973 (Annexure No.3 to the petition) that the lessee – opposite party no. 2 is entitled to

get zero period benefit till execution and registration of the supplementary deed dated 29.04.2014 is upheld. The direction for declaring zero period from 16.03.2016 to 04.08.2017 in respect of 9,937 square meter land is set aside. The direction of the revisional authority regarding refund of stamp duty is also set aside. The petitioner is directed to issue a revised demand notice by giving zero period benefit to the opposite party no. 2 till execution and registration of the supplementary deed dated 29.04.2014 and giving a reasonable time to the opposite party to deposit the amount. In case the opposite party deposits the amount as aforesaid, no coercive action shall be taken against it and the petitioner will execute the requisite deeds/documents in favour of the opposite party no.2/its allottees in accordance with the law.

(Subhash Vidyarthi J.)

February 09, 2026
Amit/Ram.