

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Original Application No. 189/2013(THC)
AND
Original Application No. 190/2013(THC)**

IN THE MATTER OF

**Pawan Kohli Vs. Gulshan Bhalla & Ors.
AND
Gulshan Bhalla Vs. Pawan Kohli & Ors.**

**CORAM: HON'BLE MR. JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE PROF. DR. P.C. MISHRA, EXPERT MEMBER
HON'BLE PRFO. A.R. YOUSUF, EXPERT MEMBER**

**Adv. For Applicants : Mr. V.K. Goel, Adv. For Appellant(in
OA No. 189/2013)
Mr. R.S. Sasan & Mr. M.S. Sasan, Adv.
For Appellants(in 190/2013)**

**Advocate for Res. : Mr. V.K. Goel, Adv. For R-1(in OA No.
190/2013)
Mr. M.S. Sasan, Adv. For R-1 to R-6(in
OA No. 189/2013)
Mr. N.P. Singh, Adv. For DPCC(in OA
Nos. 189-190/2013)
Ms. Beena Rani, Adv. For DUSIB(OA
No.(189/2013)
Mr. Rajiv Bansal & Mr. Kush Sharma,
Advocates for DDA.
Ms. Divya Pandey, Adv. For R-2 in OA
No. 190/2013
Ms. Beena Rani, Adv. For R-3 in OA
No. 190/2013
Mr. Manohar Lal, Surveyor, DUSIB
Ms. Divya Pandey. Adv. For R-5(in OA
No. 190/2013.**

Date and Remarks	Orders of the Tribunal
<p>Item No. 2 January 22, 2014</p>	<p>As per the earlier directions of this Tribunal, the DDA has filed its affidavit. In the affidavit filed by the DIR(PLNE) of the DDA dated 21st January, 2014, the DDA in clear terms has stated that the site in question is a residential land. For the proper appreciation of the above-said facts, relevant part is read as under : -</p> <p style="text-align: center;"><i>“It is pertinent to mention here that as per record, the plot under reference is located in Sarai Basti Mohalla and away from Rohtak Road. Based on location, the site remains a part of ‘residential’ land use as per zonal development plan (Zone B). Industrial activity is not permitted. Copy of the</i></p>

Zonal Development Plan (Zone B) is annexed herewith as Annexure –A”.

The DDA has also annexed as stated in the affidavit, the Land Use Plan.

A perusal of the Land Use Plan specify clearly in no uncertain terms that 19/239, Sarai Basti is a residential area. In spite of such a categoric statement by a responsible official of the DDA, the learned counsel appearing for Mr. Pawan Kohli who is the Respondent No. 1 in Application No. 190/2013 would vehemently contend that in the year 1998, the area has been declared as non-residential. On a reference to the Notification referred to by the learned counsel, it is very clear that the said Notification refers to de-notifying of the area from that of a slum. It appears that earlier this area was categorised as slum area in the Municipal records. In the reference relied upon by the Respondent No. 1 the land has been only de-notified which means that it ceases to be slum area. It does not mean that it becomes automatically industrial area.

There is one more astonishing fact brought to the notice of this Tribunal by the learned counsel for the Respondent No. 3 and 4. Along with the affidavit filed by Respondents Nos. 3 and 4 on 8th October, 2013, the said Respondents have also attached the copy of the application made by Respondent No. 1 Mr. Pawan Kohli dated 21st December, 2006. In the said application made to the Delhi Municipal Corporation, the said first Respondent has in his own hand stated that the said area is in residential. The area is mentioned as 19/239, Sarai Basti Rohilla, Delhi 110035 and this is not written in his own hand which cannot be disputed. Again he has also filed an affidavit dated 19th December, 2006 in which Pawan Kohli has specifically stated in Para ‘7’ that “the property No. 19/239 is being used as residential”.

In such circumstances, it is not known as to how the First Respondent and his learned counsel would contend that he is entitled to use the residential property for industrial purpose.

We are fully satisfied by the admission of the first Respondent categorical stand taken by the DDA apart from the affidavit filed by the Respondent and the Nos. 3 and 4 that the disputed place is not an industrial area. Therefore, the 1st Respondent is not entitled to run his industry in the area.

Accordingly, we hereby restrain the First Respondent from carrying on any industrial activity in the concerned area. We make it clear that the authority concerned i.e. DDA and Municipal Corporation shall enforce this order scrupulously.

The DPCC shall immediately seal the premises if the industrial activity is going on.

We had earlier appointed an Advocate/Commissioner for the purpose of inspection and the Advocate/Commissioner was directed to be paid a remuneration of Rs. 10,000/-(Rs. Ten Thousand) by the Applicant in Application No. 190/2013 namely Sh. Gulshan Bhalla. We made it clear even at that time that on a later point of time, if it is found that the area concerned is industrial area, the First Respondent shall have to bear Commissioner's expense. Now that we have come to the conclusion that the area concerned is an residential area and not an industrial area, we direct the First Respondent Mr. Pawan Kohli to pay the Advocate/Commissioner's remuneration of Rs. 10,000(Ten Thousand) to the Applicant Mr. Gulshan Bhalla within a period of one week from today.

The learned counsel appearing for the First Respondent seeks further time for the purpose of filing some more documents to insist that this is an industrial area.

He may do so by the next date of hearing. The consent given to the First Respondent shall be withdrawn by the Delhi Pollution Control Committee by following the procedure prescribed by law.

Stand over to 6th March, 2014. Dasti Orders to the parties.

....., JM
(Dr. P. Jyothimani)

....., JM
(M.S. Nambiar)

....., EM
(Dr. G.K. Pandey)

....., EM
(Prof. Dr. P.C. Mishra)

....., EM
(Prof. A.R. Yousuf)

