2026 INSC 975

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 10900-10902 OF 2025

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY AND ORS. ...APPELLANT(S)

VERSUS

M/S SUNSHINE TRADE TOWER PRIVATE LIMITED AND ANR. …RESPONDENT(S)

J U D G M E N T

1. The present Civil Appeals arise out of the final judgment and order dated 19.07.2024 passed by the Allahabad High Court in Writ-C Nos. 9348 and 21276 of 2023, and 7223 of 2024 ('Impugned Judgment'). The facts necessary for the disposal of the Civil Appeals are discussed as follows.

Facts

2. The New Okhla Industrial Development Authority ('NOIDA'/Appellant No. 1) launched a scheme dated 22.09.2011 for the allotment of commercial plots to builders/developers in Noida, Uttar Pradesh as part of its policy for infrastructural development. The last date

for the submission of a tender was 14.10.2011. M/s Sunshine Trade Tower Pvt. Ltd. ('the Developer'/Respondent No. 1) was selected as the successful developer. Consequently, a Lease Deed dated 11.01.2012 was executed by NOIDA, in favour of the Developer, for Plot No. 5-A, Sector 94, Noida, U.P. ('Subject Plot') for a total sale consideration of ₹1,33,86,63,730/-.[1] Possession was handed over on the same day. According to the site plan, as approved by NOIDA on 06.03.2012, the Subject Plot has a 45-metre-wide Front Road and a 24-metre-wide Side Road. Under the terms of the Lease Deed, the Developer was to develop a commercial complex on the Subject Plot for "*commercial activities such as shopping malls, showrooms, retail outlets, hotels, restaurants, offices and such other commercial uses*". It has been the Developer's case that it could not begin proper construction activities as the 45-metre Front Road was encroached and the 24-metre Side Road was sandy, unpaved, and non-motorable.

3. In the intervening period, on 17.09.2013, the National Green Tribunal ('NGT'), Principal Bench at New Delhi passed an interim order directing that construction activities within 10 kilometres of the Okhla Bird Sanctuary be stopped.[2] In pursuance of the said interim order, the

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[1] To date, the Developer has deposited ₹39,35,67,138/- towards the total consideration.

[2] *Amit Kumar v Union of India & Ors.*, Original Application No. 158 of 2013 (National Green Tribunal, New Delhi).

Superintendent of Police, Gautam Buddha Nagar issued a notice to the Developer to stop construction work given that the Subject Plot was within 600 metres from the boundary of the Okhla Bird Sanctuary. The Developer complied and construction activities came to a halt.

4. The injunction order passed by the NGT was removed only on 19.08.2015, when the Government of India issued a notification stipulating 19.08.2015 as the cut-off date from which project proponents would not be permitted to undertake construction over land falling within 100 metres from the eastern, western, and southern boundaries, and 1.27 kilometres from the northern boundary of the Bird Sanctuary. Despite the removal of the bar on construction activities by the Central Government, the Developer could not proceed with full-fledged construction activities as the 45-metre Front Road continued to be encroached and the 24-metre Side Road was still not constructed.

5. Taking into consideration the several issues confronting developers and projects being stalled for various reasons, NOIDA formulated a policy, referred to as the 'Zero Period Policy',[3] on 28.03.2016. The relevant portions of this Policy read as:

> "*After due consideration on the supplementary item no. 2 of the 188th meeting of the Board of Directors of Noida Authority, the following instructions/procedure regarding Zero Hour are issued in continuation of the instructions given by the Board of Directors of Noida Authority on 14.03.2016.*

[3] Also referred to as a 'Zero Hour Policy'.

The application of the allottee regarding permission of 'zero hour' period for all types of assets of the Authority will be considered in the following circumstances –

1. If the possession of the land/plot allotted to the allottee/developer is not being acquired by the Authority for any suitable reasons.

2. Construction/development work is not possible on the land allotted by the allottee/developer due to deterioration of peace and order situation or encroachment on the allotted land, etc.

3. Due to stay orders of the court, the process of allotment/lease deed/possession is stayed or the construction work cannot be carried forward.

4. The lease deed could not be executed in view of the orders of the Government Order/Authority Board.

5. <u>If possession of any land has been given and execution of lease deed has also been done, but there is no access road to the allotted land due to which construction/development on the allotted land is not possible</u>.

6. In the schemes in which it is mentioned in the brochure at the time of land allotment that the remaining allotment/reservation of land will be done after it is available and it is also possible that this land is not contiguous, in such a situation, in the case of the available land not being contiguous, zero period benefit will not be allowed.

The decision has been taken after due consideration in respect of the Zero Hour, the process of rescheduling of instalments shall be carried out as follows:

1. If the Zero Hour is declared for the entire area of a territory, the instalments falling in the Zero Hour period (premium + simple interest) shall be shifted beyond the last date of the Zero Hour and no penal interest shall be charged for the Zero Hour period.

2. Revised instalments will be made by merging them in subsequent instalments. The penalty interest charged on the partial portion for which the period has been declared as 'nil' shall not be charged.

3. In the matter of allowing Zero Hour, the standing committee constituted in the concerned authority will make its recommendation to the Chief Executive Officer after considering the merits and demerits of each case received for this purpose.

The above provisions shall apply to all types of assets."

(emphasis supplied)

6. Following the promulgation of the Zero Period Policy, the Developer made two representations before NOIDA: one on 12.04.2016, requesting that the payment schedule be modified; and the second on 29.09.2016, informing NOIDA about the unavailability of access to the Subject Plot either through the 45-metre Front Road or the 24-metre Side Road. In a third letter, on 15.10.2016, the Developer requested NOIDA, for the first time, to extend the Zero Period Policy's benefit on two grounds: *first*, the NGT restraint order; and *second*, the lack of access roads to the Subject Plot.

7. On 05.06.2017, NOIDA issued a letter to the Developer granting Zero Period Policy benefit for the period from 14.08.2013 to 28.10.2013 and an exemption from penal interest from 29.10.2013 to 19.08.2015. This benefit was granted on account of NGT's restraint order. With respect to the question of unavailability of access to the Subject Plot via the 45-metre Front and 24-metre Side Roads, NOIDA asked the Tehsildar to submit a report after due verification.

8. On 14.02.2019, the Tehsildar submitted his report, recording that the land that had been earmarked for the 45-metre Front Road is '*Abadi*' land, has never been acquired, and is encroached upon. The relevant portions of the Tehsildar's report read as follows:

> "*As mentioned in the Work Circle's letter dated 02.01.2019, it is stated that – "A 45.00-meter-wide road is located on one side and a 24.00-meter-wide road is on the other side of Commercial*

Plot No. 05A. The construction of the 45.00-meter-wide road in front of this plot could not be completed due to encroachment by farmers." According to available records, this 45.00-meter-wide road falls under Khata No. 684 of Gram-Naurangabad Khadar, which has been encroached upon by residents of Gram Chhlera since earlier, and the Noida Authority has not acquired the land under Khata No. 684.

As per the proceedings, the undersigned conducted a documentary and physical inspection of the land in question on 15.01.2019 and found that <u>the 45.00-meter-wide road leading to Commercial Plot No. 05, Sector-94, Noida passes through Khasra No. 684 of Gram Chhalera Banger. According to the current revenue records, Khasra No. 684 with an area of 0.51900 hectares is recorded as 'Abadi' (inhabited land). Due to this, the Noida Authority has not acquired the said land, and the old inhabitance of the villagers is still present on the spot. As a result, the access road to Commercial Plot No. 05, Sector-94 is blocked</u>. (Photographs of the site are attached.)

Apart from this, desired action is expected to be taken regarding the physical possession/access road of Commercial Plot No. 05, Sector-[94], Noida and any final/interim orders of the court regarding the said land are to be obtained from the Vidhi Vibhag, Noida."

(emphasis supplied)

9. On 09.01.2020, a committee of NOIDA convened in a meeting to consider the Developer's request for Zero Period Policy benefit under Clause 5 of the Zero Period Policy. Notwithstanding the Tehsildar's report's factual findings, the committee rejected the request for grant of Zero Period Policy benefit vis-à-vis the lack of adequate access to the Subject Plot. Consequently, on 14.02.2020, NOIDA's Chief Executive Officer ('CEO') passed an order rejecting the Developer's request for Zero Period Policy benefit, reasoning that the Developer had sufficient access to the Subject Plot. The relevant portions of the CEO's order are extracted hereinbelow for ready reference:

“*5. According to the site plan of the allotted plot number 5A, Sector 94, 45 m wide roads have been given in the east and 24 m wide roads in the north of the plot. Out of which 45 m road is encroachment free up to the allotted land and 24 m road on the northern side of the land has been accepted by the petitioner himself to be unpaved. Which is an encroachment free road, it is clear that if deep digging had not been done by the petitioner/respondent to create a basement on the land, this 24 m wide road would have been constructed much earlier. The Authority’s Office Order No. NOIDA/Mu.Ka.A./Vi.Ni./2017/1914 dated 16.06.2017 which provides for grant of benefits in case of non-availability of approach road to the allotted land, as per the decision taken by the Authority Board in its 192nd meeting in respect of the zero period, whereas in the case, the approach road to the land of the petitioner exists in the entirety of 24 m road and partially up to 45 m road to his land, using which the construction work of basement, first floor, etc. exists on the allotted land by the respondent, and an attempt has also been made by them to damage the 24 m road side by digging deep.*

…

The construction work on plot No. 5A, Sector-94 by allottee M/s Sunshine Trade Tower Pvt. Ltd. was started in the year 2012 and the basement was dug deep in the plot in the year 2012 which was not completed even after two years till 2014 due to which 24.00 m wide road and drain could not be constructed at the work site. But an alternative route was already available to transport building materials over the terrain. Therefore, the demand for grant of Zero Hour benefit to the allottee on the ground of non-availability of approach road to the land is not maintainable and hence the representation dated 05.03.2019 of the respondent is hereby disposed of in compliance with order dated 21/05/2019 passed by the Hon’ble High Court of Allahabad.”

10. Aggrieved by the CEO’s order, the Developer filed a revision application before the State Government under Section 41(3) of the Uttar Pradesh Urban Planning and Development Act, 1973 (‘1973 Act’) read with Section 12 of the Uttar Pradesh Industrial Area Development Act, 1976 (‘1976 Act’).

11. During the pendency of the first revisional proceedings, the Developer also filed a complaint against NOIDA before the Uttar Pradesh Real Estate Regulatory Authority ('UPRERA'), praying for possession of the Subject Plot free from encumbrances, compensation for delayed possession with compound interest, and construction of the 45-metre Front and 24-metre Side Roads. It may be mentioned, at this stage, that pending disposal of the proceedings before UPRERA, NOIDA managed to complete and open-up the 24-metre Side Road on 18.02.2020.

12. On 22.10.2020, UPRERA passed an order rejecting the Developer's complaint as not maintainable, asking it to pursue alternative statutory remedies under the 1973 and 1976 Acts. However, in its order, UPRERA recorded that: (i) a site inspection had been conducted by UPRERA's technical team to inspect the actual condition of the Subject Plot and access roads; and (ii) from the Inspection Report, it was clear that while NOIDA had completed the 24-metre Side Road in 2020, it had not provided the 45-metre Front Road to the Developer and that there was existing habitation on that road. The relevant portions of the UPRERA's order are reproduced hereinbelow:

> "*A site inspection was conducted by this authority's technical team to inspect the actual condition of the plot land and the constructed road, and an inspection report dated 02.07.2020 was received. <u>It is clear from the inspection report that the 24.00-meter road construction work was completed by NOIDA in 2020. This is corroborated by the presence of a signboard at the said place. It has been informed that the 45.00-meter road has not</u>*

> *been constructed, and there is an existing habitation at that place.*
> *In connection with the non-construction of the 45-meter road, the complainant has submitted a copy of the Tehsildar's report dated 14.02.2019 as evidence…*
> *It is clear from the above reports that the opposite party has not provided the 45.00-meter wide approach road to the complainant as per the lease deed.*
> *…*
> *It is clear that the opposite party has failed to provide a 45-meter wide road as per the lease deed, which was supposed to be made available, due to the existence of a settlement on the said road. It is also clear that the Noida Authority was supposed to provide two roads, one 24 meters wide and the other 45 meters wide, adjacent to the plot in question. The 24-meter wide road was constructed almost eight years after the plot was allocated, but the 45-meter wide road has not been built on either side of the plot, and no concrete plan has been communicated by the Noida Authority in this regard.*"
>
> (emphasis supplied)

13. When the State Government took up the pending first revisional proceedings on 24.12.2020, it took into account the observations of UPRERA and directed NOIDA to reconsider its decision on extending the Zero Period Policy's benefits to the Developer after a fresh verification of the facts ('First Revisional Order'). Thus, on the CEO's directions, the Additional CEO conducted a physical inspection of the site on 01.02.2021 and filed an Inspection Report on 04.03.2021. It is noteworthy that the Inspection Report recorded that the 45-metre Front Road had not been constructed due to acquisition issues and inhabitation of the same. However, regardless of these observations, the Inspection Report recommended against the grant of Zero Period Policy benefit. The relevant portions of the Inspection Report, insofar as they relate to the

issue of accessing the Subject Plot via the 45-metre and 24-metre Roads, are extracted hereinbelow for ready reference:

> "*1. The 24-meter road leading to the plot in the north direction was available since the time of allotment, but the construction of the double basement by the allottee hindered the construction of the 24-meter road. The construction of the road was completed on February 18, 2020.*
> *2. A 45-meter wide road has been constructed up to the northeast corner of the allottee's plot, which was completed on August 6, 2014. <u>However, the road beyond this point towards the southwest is not constructed, and there is habitation in the area</u>…*
> *…*
> *Therefore, based on the above discussions and inspections, we conclude that the allottee's plot has access to a 24-meter road in the north direction, and the delay in its construction was caused by the allottee themselves. <u>It is true that the site plan attached to the lease deed shows a 45-meter wide road in the east, but it is not constructed due to acquisition issues and habitation in the area</u>. However, the allottee's plot has access to a 45-meter road, which does not affect the valuation of the plot. The allottee's case does not fall under the category of plots without access roads, as per the office order dated June 16, 2017, issued by the Noida Authority.*
> *In view of the above, it is not justified to grant any exemption or benefit to the allottee*."
>
> (emphasis supplied)

14. Based on the Inspection Report dated 04.03.2021, NOIDA's Special Officer (Commercial) passed an order rejecting, for the second time, the grant of Zero Period Policy benefit, under Clause 5, to the Developer. Aggrieved, the Developer filed a fresh revision application, under Section 41(3) of the 1973 Act read with Section 12 of the 1976 Act, before the State Government.

15. Pending consideration of the second revisional proceedings, another development took place. On 14.06.2022, NOIDA passed an order

cancelling the Lease Deed dated 11.01.2012 on the ground that it had defaulted in the payment of the lease rental. Aggrieved, the Developer filed a writ petition before the Allahabad High Court challenging the cancellation order.[4] By its interim order dated 21.06.2022, the High Court stayed the cancellation order pending the disposal of the second revisional proceedings by the State Government.[5]

16. On 14.09.2022, State Government passed an order in the second revisional proceedings, partly allowing the Developer's revision application ('Second Revisional Order'). The State Government made factual findings that the 45-metre Front Road was blocked on account of encroachment and that such a blockage would result in a modification of the site plan, affecting the project's commercial viability. The State Government held that the Developer was, thus, entitled to: (i) waiver of penal interest on pending dues; and (ii) a one-year Covid-19-related extension. The State Government further directed NOIDA to issue a revised requisition, within one month, to the Developer. The relevant portions of the Second Revisional Order are reproduced hereinbelow for ready reference:

> "*11. From the arguments and evidence adduced on behalf of the petitioner and the Authority, it is undisputed that so far as the land allotted to the allottee is concerned, there is no dispute regarding possession thereof. <u>It is also undisputed that contrary</u>*

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[4] *Sunshine Trade Tower Pvt Ltd v State of Uttar Pradesh & Ors.*, Writ-C No. 17584 of 2022 (Allahabad High Court).

[5] The cancellation of the Lease Deed was later withdrawn by NOIDA on 28.04.2023.

to the position indicated in the lease deed to the allottee in the length of the entire arm on the eastern side of the allotted land, 45 m road does not exist and is inhabited land, which is also not possible to acquire and is completely encroached upon. Even in the future of the completion of this 45 m road, there is no plan of action with the authority. It is certain that the construction of 45 m road up to one corner of the plot has been completed in 2014.

12. As far as 24 m road is concerned, the fact that it was completed on 18.02.2020 is undisputed. However, it is not proper to put the entire blame on the allottees as, as per the records available, the work of 24 m road was obstructed due to construction of sewerage from 02.05.2013 to 07.01.2014 in the said alignment. If it was obstructed because of the soil dropped by the allottee, a notice would have been served on the allottee from the authority level to remove the soil. There is no mention in the authority's own statement or statements to the effect that any notice was served by them to the allottee for removal of soil. If sewerage work was possible, the approach road could also be constructed in this alignment. After 2014, till 2019, no action was taken for the construction of 24 m road from the authority level.
…

15. As far as point-5 of the Zero Hour Policy is concerned, a 24 m approach road on the north side of the plot was available from the beginning, though it was a kutcha road and could be paved only in 2020. The 45 m road was available up to one corner of the plot since 2014 but it could not be constructed in the entire eastern side of the plot and there is no possibility of it in future. Though the Authority has taken a stand that no additional charges are levied from any allottee on the basis of the allotted land being located along the 45 m road or in the allotted perspective and therefore, it does not affect the valuation of the allotted land, it is pertinent to note that the elevation and the entire layout in the approved map on this commercial land has been done considering the 45 m as the main entry from the side of the road and the persons who have invested money in it and have made bookings for setting up their commercial establishments will have to take cognizance of the same and the nature and map of this entire commercial property will have to be changed once this road is blocked. This terrain and its own map has been done by the allottee considering the availability of this 45 m road and considering the promise made in the lease deed of the authority as correct. Therefore, the nature of the project and its viability has been completely affected when it is no longer available because it is no longer as attractive to the end consumer as it would be if two-way access were available.

It has also been mentioned by RERA in its order dated 22.10.2020 that if such a promise had been made to an end consumer, he would have been entitled to receive the compensation.

16. From the above entire discussion, it is clear that the matter is not directly covered by the Zero Hour Policy, <u>but because the access to the 45 m road was not provided by the Authority as promised, the construction of the building was not possible as per the approved map and this point was continuously disputed</u>. The revisionist is, therefore, entitled to the benefit of this policy in part. In the specific circumstances mentioned, the authority level should get a waiver of penal interest on the pending dues of the reviser. The allottee will also be entitled to the benefit of one year free extension of time for the Covid period as directed by the State Government<u>. The Authority is also required to approve the process of revision of the earlier approved map by the surveyor as per the present status of the allotted land as per the rules immediately after the submission of the revised map by the allottee so that the construction work can be started by the allottee at the earliest. The Authority is required to provide the revised requisition to the reviser within the next one month. The cancellation of the allotment of land during the pendency of the revision petition further complicates the matter and is not proper. Therefore, the order dated 14.06.2022 passed by the Authority is also quashed</u>. Accordingly, the review petition is disposed of.”

(emphasis supplied)

17. Following the State Government’s Second Revisional Order, NOIDA, vide a letter dated 19.01.2023, called for a report from the Revenue Department regarding the status of the 45-metre Front Road. In pursuance thereto, the Deputy Collector filed a report on 20.02.2023. In his report, the Deputy Collector noted that the 45-metre Front Road falls in Khasra No. 684 of Village Chhalera Bangar, which is recorded as inhabited land in revenue records and has not been acquired. The Deputy Collector further stated that its purchase/acquisition did not appear

feasible without the consent of the landowners. The relevant portion of the Deputy Collector's report is extracted hereinbelow for ready reference:

> "*Please refer to the above subject letter no. Noida/Commerce/2023/2473, dated 19.01.2023, by which a report has been sought regarding plot no. 5A, Sector 94. Regarding the above, it is to be informed that the 45 m wide road towards the eastern boundary of the plot no. 5A, Sector 94 is falling in Khasra no. 684 of village Chhalera Bangar. In the present revenue records, Khasra no. 684, village Chhalera Bangar is recorded as 'inhabited'. The Khasra in question has not been acquired due to the registration of 'inhabited' in the revenue records. At present, 'inhabited' exists on the spot (photograph attached). Since the Khasra number in question is registered as 'inhabited' in the current revenue records, purchase/acquisition does not seem possible in future without the mutual consent of the farmers*."
>
> (emphasis supplied)

18. In view of the certainty that the 45-metre Front Road would not be made available as the frontage for the building in question, the Developer made an application to NOIDA, on 03.03.2023, seeking modification of the site plan to the extent that 24-metre Side Road be the frontage. NOIDA raised certain technical objections to the application which, we are informed, the Developer cured by 17.05.2023.

19. In the meanwhile, aggrieved by the partial grant of Zero Period Policy benefit under the Second Revisional Order and on account of NOIDA's continued inaction despite the Deputy Collector's report dated 20.02.2023 making it clear that the 45-metre Front Road was encumbered and unavailable, the Developer had no other option except to approach

the Allahabad High Court by way of a writ petition.[6] The High Court passed an interim order dated 10.04.2023 directing NOIDA to sanction the revised plan without insisting on payment of time extension charges. Following the interim directions, the Developer requested NOIDA to approve the revised site plan. However, by its order dated 01.06.2023, NOIDA rejected the revised plan on the ground that objections raised by the Authority remained unanswered. Challenging the said order, the Developer filed yet another writ petition.[7]

20. Pending the disposal of the aforementioned writ petition, NOIDA proceeded to issue a Demand Notice dated 23.02.2024 for the payment of the balance amount of ₹100.39 crores towards the principal and premium (without interest). The Developer challenged this order in a fresh writ petition.[8]

21. The three pending writ petitions were taken up together and disposed of by the Allahabad High Court by the judgment and final order impugned before us.

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[6] *M/s Sunshine Trade Tower Pvt Ltd v State of Uttar Pradesh & Ors.*, Writ-C No. 9348 of 2023 (Allahabad High Court).

[7] *M/s Sunshine Trade Tower Pvt Ltd v State of Uttar Pradesh & Ors.*, Writ-C No. 21276 of 2023 (Allahabad High Court).

[8] *M/s Sunshine Trade Tower Pvt Ltd v State of Uttar Pradesh & Ors.*, Writ-C No. 7223 of 2024 (Allahabad High Court).

Impugned Judgment

22. The High Court took note of the fact that the 45-metre Front Road was encroached. The Court also noted that this fact is not disputed as the official reports themselves indicated that there are encroachments on the said road and that it is not possible to acquire the concerned land. Further, the High Court also noted that the 24-metre Side Road was not completed till February 2020. The accumulative effect of the situation, as it existed, disabled the Developer from having adequate access to the Subject Plot and proceeding with construction activities. The relevant observations of the High Court are extracted hereinbelow:

> "***30**. …From the record it is apparently clear that the Noida Authority has executed the lease deed on 11.01.2012. The map was also sanctioned by the Noida Authority on 06.03.2012, giving the main entry of the plot from the 45 metre wide road and accordingly, the building plan was prepared. On the basis of the aforesaid promise of the Noida Authority, the petitioner has agreed to construct the building on the said plot. The conditions of the lease deed executed by which the plot was allotted to the petitioner has to be read in toto. On one hand, there was an obligation on behalf of the builder/promoter to start the construction and complete the same within the stipulated time and on the other hand, there was an obligation on behalf of Noida Authority to provide access road, which was 45 metre wide road on the North side of the plot and 24 metre wide road on the East side of the plot. However, 45 metre road has been encroached and the Noida Authority did not take any step to remove the encroachment and also to provide access to the plot. Further the other road of 24 metre was also not constructed due to which the petitioner could not properly proceed with the project*."
>
> (emphasis supplied)

23. Rejecting NOIDA's contention that the 24-metre Side Road was inaccessible because of the Developer's own fault as the Developer had excavated the said road, the High Court held that the Developer had a legitimate expectation that NOIDA would provide two access roads which it had failed to do. The relevant observations of the High Court are reproduced hereinbelow for ready reference:

> "***31.*** *It has been argued on behalf of the Noida Authority, that 24 metre road could not be constructed for sufficient long period of time due to fault of the petitioner as he has excavated the plot in question. This argument cannot be accepted as the petitioner had started the construction as per the terms of the lease deed and to start the construction the petitioner had to excavate the plot. It is not the case that the petitioner has excavated the road. Nothing has stopped the Noida Authority to complete the road to provide ingress and egress to the plot of the petitioner. <u>The delay on the part of the Noida Authority to carry out the obligation cannot be fastened on the petitioner. Further the petitioner after being allotted the plot and lease deed being executed had legitimate expectation that the Noida Authority would provide 45 metre wide road on the North side of the plot and 24 metre road on the East side of the plot for ingress and egress to the project land</u>. In absence of any ingress and egress no construction can be carried out. Neither the promoter would have been in a position to further sell/book the commercial space for which the building was to be constructed, as there was no proper approach road*."
>
> (emphasis supplied)

24. Taking the totality of the facts and NOIDA's Zero Period Policy into consideration, the High Court concluded that the benefit of this policy could not be denied to Respondent No. 1 and issued the following directions:

> "***41.*** *It is evident that in the instant matter there was an encroachment on the road, as a result of which the development was unable to proceed. Accordingly, the case of the petitioner*

falls under the 'Zero Period' policy of Noida for grant of 'Zero Period' and the said benefit of 'Zero Period' cannot be denied to the petitioner. We therefore direct the Noida Authority to accord benefit of 'Zero Period' to the petitioners in accordance with the Office Order dated 28.06.2016.

42. *Accordingly, we issue the following directions:-*

> *(i) The Noida Authority shall issue fresh calculation granting benefit of 'Zero Period' and raise the demand within two weeks from the date of production of certified copy of this order.*
>
> *(ii) The petitioner shall pay the balance amount in terms of the demand in next 08 weeks from the date of receipt of demand so raised.*
>
> *(iii) Thereafter, the Noida Authority shall approve the revised plan in accordance with law, subject to compliance of other formalities by the petitioners, within next 04 weeks.*

43. *It is further observed that in case there is any default by the petitioners in following the above directions, the Noida Authority will be at liberty to proceed in accordance with law. The relief qua 'Zero Period' has been considered by this Court on various factors peculiar to the instant cases. The benefit of 'Zero Period' accorded to the petitioners shall not be treated as a precedent. The question of law qua the benefit of 'Zero Period' is left open to be considered in appropriate proceeding/case. Accordingly, the impugned orders are modified to the above extent.*"

25. Challenging the decision and consequent directions of the High Court, NOIDA approached this Court by filing the present appeals. It is necessary to mention that when the appeals were taken up for hearing by this Bench, we suggested that the parties ought to try and resolve the dispute amicably as the project in question has been stalled, for no justifiable reason, for a long time. Unfortunately, the parties could not arrive at any settlement. As such, we now proceed to adjudicate the dispute on merits

Submissions of the Parties

26. We have heard Mr. Atmaram N.S. Nadkarni, learned Senior Advocate for the Appellants, and Mr. Mukul Rohatgi, Mr. Maninder Singh, Mr. Jayant Muth Raj, and Mr. Gaurav Agarwal, learned Senior Advocates for the Respondents.

27. On behalf of the Appellants, Mr. Nadkarni has submitted that:

27.1. Clause 5 of NOIDA's Zero Period Policy dated 28.03.2016 ought to be strictly construed and applied only where there is no physical access to the allotted land, thereby making construction or development impossible. The mere absence of a preferred or additional entry, or the incomplete metalling of an otherwise functional road, would not satisfy this requirement.

27.2. The Developer had continuous access to the Subject Plot through the 45-metre Front and 24-metre Side Roads and had, in fact, undertaken substantial construction, including the double basement and upper floors. The possession letter, site plan, satellite images, and inspection report establish the availability of access. The delay in completing the road was partly attributable to the excavation undertaken by the Developer itself and entry-and-exit through the 24-metre Side Road was sufficient for the completion of the project.

27.3. Construction was discontinued because of the Developer's financial difficulties and defaults, as reflected in its letters seeking rescheduling of instalments and admitting inadequate cash flow. The plea concerning non-availability of an access road was raised for the first time only after the Zero Period Policy was notified and was, therefore, an afterthought intended to avoid obligations under the lease deed. The Developer breached the stipulated five-year construction period and made no payment after the first instalment, leaving substantial amounts outstanding.

27.4. The Zero Period relief granted to AVP Buildtech, a comparator developer, cannot be used as precedent in the current case as access, in that case, was genuinely obstructed by a land dispute and a judicial restraint order. Furthermore, the comparison with the subsequent allotment to Purvanchal Projects too is untenable considering the differences in location, date, pricing, and the 'as is where is' terms of that allotment.

28. On the other hand, on behalf of the Developer, Mr. Rohatgi and Mr. Singh have submitted that:

28.1. The High Court correctly granted the benefit of the Zero Period Policy and directed reconsideration of the revised building plan. The lease deed, site plan, and sanctioned building plan contemplated the 45-metre Front Road as the principal frontage of the Subject Plot, with the 24-metre

Side Road merely serving as a side road. The promised 45-metre Front Road was never provided, while the 24-metre Side Road was only completed in February 2020. Successive factual findings of the Tehsildar, UPRERA, NOIDA's Additional CEO, the State Government, and the Deputy Collector establish that the land required for the 45-metre Front Road was (and continues to be) unacquired 'Abadi' land under habitation and encroachment, and that its future acquisition is impracticable without the landowners' consent.

28.2. The key question is not whether the Subject Plot could physically be reached from one corner but whether the project could be developed in accordance with the sanctioned plan. The unavailability of the contemplated 45-metre Front Road required the building to be reoriented and necessitated changes to its frontage, setbacks, building line, and configuration, besides materially affecting its visibility and commercial viability. A revised plan treating the 24-metre Side Road as the frontage was submitted to NOIDA on 03.03.2023 but was rejected by it on 01.06.2023; it remains unsanctioned till date. Preliminary excavation and basement work do not establish that the sanctioned project as a whole could lawfully or practically be completed. Moreover, NOIDA's assertion that any upper floors had been constructed is not true.

28.3. Clause 5 of the Zero Period Policy applies squarely because the requisite access contemplated by the allotment and sanctioned plan was unavailable, thereby preventing development. Consequently, the Zero Period benefit should run from the execution of the lease deed on 11.01.2012 until the sanction of the revised building plan, with the intervening instalments shifted in accordance with the Zero Period Policy and without penal interest or additional charges. Further, the Developer's prior representations did not admit insolvency; they merely spoke to temporary, project-specific hardships. The instant dispute is about the amount legally payable under the Zero Period Policy, not about the Developer's willingness to pay.

28.4. There is a plausible argument on the principle of parity with respect to AVP Buildtech (which was granted Zero Period Policy benefit) and the subsequent Purvanchal Projects allotment (where both the 45-metre-wide and 24-metre-wide roads were provided, together with more favourable ground-coverage and interest terms). Furthermore, the repeated unsuccessful auctions of other plots having only 24-metre-wide access demonstrates the commercial importance of the missing 45-metre-wide frontage.

Analysis

29. We will first deal with NOIDA's Zero Period Policy and then proceed to examine whether the material on the record is sufficient to come to a conclusion that there was no access to the Subject Plot in accordance

with the originally sanctioned plan, thereby triggering the Zero Period Policy. We will also consider the consequences flowing from NOIDA’s failure to make available the 45-metre Front Road and its persistent refusal to sanction a revised site plan.

Zero Period Policy

30. The key question for consideration before us, with respect to NOIDA’s Zero Period Policy, is not its legality or validity; it is its true understanding and applicability. At the outset, the policy must be understood in the context of the purpose and object behind the Uttar Pradesh Legislature’s enactment of the Uttar Pradesh Industrial Area Development Act, 1976 and the State Government’s subsequent constitution of NOIDA as an authority for the development of industrial infrastructure as well as the creation of urban townships.

31. The scheme launched by NOIDA in 2011 contemplated the allotment of plots to builders/developers for creating necessary infrastructure and commercial spaces. The present project must be viewed in the context of NOIDA’s larger scheme to create the infrastructure necessary for the development of commercial activities, which, in turn, have the positive effect of employment and wealth generation. It is trite that developing commercial plots, such as the Subject Plot, requires large amounts of financial investment. With the advent of

Liberalisation, the policy of enabling private enterprise to participate in nation-building is well-entrenched. If private enterprise is to participate in infrastructure development by undertaking major financial investments, then it is necessary for public authorities, such as NOIDA, to create a conducive environment in which there is security as well as certainty vis-à-vis the investment that private enterprise risks and undertakes.

32. Policies such as the Zero Period Policy here are formulated to account for circumstances which are beyond the control of either private enterprise or developmental authorities. The present policy was issued to tide over the serious consequences of paying large rental instalments and accrued interest in a situation where construction activity is stalled due to unforeseen circumstances. The policy was evolved and applied taking into consideration certain realities, coupled with the institutional experience that NOIDA has gained over time.

33. The purport of Clause 5 of the Zero Period Policy is to grant relief to developers in cases where the possession of the allotted land has already been given to a developer, pursuant to the execution of a lease deed, but due to certain circumstances, the Developer is unable to gain an access road to the allotted plot and, as a consequence, development/construction is not possible. With respect to its interpretation, NOIDA's stance has been that Clause 5 ought to be construed strictly and literally — given that the Developer could gain *some* measure of access to the Subject Plot and

undertake limited development, NOIDA submits that the benefit of Clause 5 cannot be extended.

34. Having considered the matter in detail, we are of the opinion that the provisions of a policy, such as the Zero Period Policy, are not to be interpreted like the provisions of a statute. When interpreting the provisions of a policy, it is necessary for courts to consider both a micro and a macro perspective of the matter. A court must consider the purpose and object of the clause being interpreted and, at the same time, ensure that any interpretation reached sub-serves the broader goals and purposes of the policy as a whole. In this perspective, we are of the opinion that Clause 5 of the Zero Period Policy is intended to ensure that a developer has easy, effective, and legitimate access to the allotted plot and is able to proceed with construction. This Clause is not to be interpreted so as to disapply the benefit of the Zero Period Policy in a situation where a developer struggles to gain access to the allotted plot and barely manages to keep construction ongoing. The circumstances in which a developer has to race against time, keeping in mind contractual and financial obligations, are well-known to everyone in the real estate industry.

35. Therefore, the argument that the Developer could have some access cannot be a ground to exempt NOIDA from its obligation to provide easy, efficient, and legitimate access to the Subject Plot. If adequate

access was not provided for reasons attributable to NOIDA, then the benefit of the Zero Period Policy cannot be denied, least of all on the ground that *some* access was available.

Availability of Adequate Access via the 45-metre Front Road to the Subject Plot

36. We now come to the second, narrower issue of whether NOIDA had provided adequate access, via the 45-metre Front Road, to the Developer vis-à-vis the Subject Plot.

37. The reality of the facts that have unfolded after the site plan was sanctioned in 2012 is well-established by the official documents that have been brought on record. We have had the opportunity to peruse five key official documents: (i) the Tehsildar’s report dated 14.02.2019, (ii) the order dated 22.10.2020 passed by UPRERA, (iii) the Inspection Report dated 04.03.2021 filed by NOIDA’s Additional CEO, (iv) the Second Revisional Order dated 14.09.2022 passed by the State Government, and (v) the report dated 20.02.2023 filed by the Deputy Collector. The cumulative effect of the aforementioned official documents and reports is clear. There is, therefore, no doubt about the fact that the 45-metre Front Road was not made available to the Developer by NOIDA. NOIDA, as the statutory developmental authority, had the wherewithal to remove the encroachments and open-up the access road for the Developer. However, it has not done so.

Consequences of the Unavailability of the 45-metre Front Road and NOIDA's Refusal to Sanction the Revised Site Plan

38. In real estate, elevation and frontage are not merely matters of architectural aesthetics; they are important determinants of commercial value and marketability. A building's elevation creates its first impression while its frontage determines how prominently it presents itself to the street, customers, and the surrounding urban environment. For a developer, clarity about the permissible and proposed elevation and frontage at the planning stage is of considerable importance. A well-designed façade, adequate frontage, appropriate visibility, and an attractive street presence can significantly enhance the desirability of the property. This is particularly important for commercial developers, where visibility and accessibility directly influence footfall, branding, and business prospects.

39. Uncertainty or frequent changes in the planning relating to the frontage of a commercial property can affect the viability of the project, investor confidence, and the expectations of purchasers and commercial occupants. It is necessary for developers to treat elevation and frontage as core elements of a planned project and not keep them uncertain. Clear, predictable, and commercially viable parameters provide the foundations of sound investment, effective development, and sustained real estate value generation.

40. Coming to the facts of the present case, it is the case of the Developer that the non-availability of the 45-metre Front Road has fundamentally affected the sanctioned building plan. The original plan envisaged the 45-metre Front Road as the principal frontage of the Subject Plot. It is now clear that, given the circumstances, the project has to be reconsidered, including aspects as to the location and extent of setbacks, the positioning and orientation of the building, entry-and-exit points, the permissible building configuration, and the treatment of the frontage. By necessary implication, the 24-metre Side Road is now required to be treated as the frontage for any form of redevelopment of the project.

41. It goes without saying that the change from a 45-metre frontage to a 24-metre frontage has a direct effect on the development potential and commercial attractiveness of the Subject Plot. Moreover, the revised planning requirements that such a change implicates are not capable of being addressed by internal modifications to the site plan — the building's positionality has to be re-oriented, and the setbacks and other planning parameters have to be suitably modified.

42. It is for these aforementioned reasons that the Developer has been compelled to request NOIDA to sanction a revised site plan. We are of the opinion that the Developer can neither be expected to proceed with the project in terms of the original site plan nor can it be fastened with any

liability for NOIDA's failure to discharge its obligation to provide the 45-metre Front Road. Consequently, NOIDA's denial of Zero Period Policy benefit to the Developer and its persistent refusal to sanction the revised site plan so that the project may finally go ahead are unreasonable and untenable in law.

Conclusion

43. In conclusion, given our aforementioned findings on the correct construction of the Zero Period Policy (particularly Clause 5), unavailability of the 45-metre Front Road, and on the consequences flowing from NOIDA's actions, we are of the opinion that the Impugned Judgment warrants no interference. The Allahabad High Court has not committed any error in allowing the Developer's writ petitions. Given our conclusion, we need not examine the Developer's additional pleas or contentions with respect to discrimination or comparison with other similarly situated developers.

44. In view of the above discussion, we dismiss the Civil Appeals and uphold the judgment and final order of the Allahabad High Court impugned before us.

45. Before parting with this case, we also record the statement of Mr. Rohatgi, on behalf of the Developer, that the project will be completed within a period of four years from the approval of the revised site plan and

that the amounts due will be paid by the Developer in eight instalments. NOIDA will take note of this statement and issue necessary directions for commencement of the project with revised schedules, as already envisaged in paragraph 42 of the Impugned Judgment.

46. Pending application(s), if any, are disposed of. There shall be no order as to costs.

…………………………………....J.
[**PAMIDIGHANTAM SRI NARASIMHA**]

…………………………………....J.
[**ALOK ARADHE**]

NEW DELHI;
SEPTEMBER 8, 2026.