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2026 INSC 1233

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9025 OF 2026

UTTAR PRADESH AVAS EVAM VIKAS PARISHAD & ANR. ...APPELLANT(S)

VERSUS

M/S GAURSONS INDIA PVT. LTD. & ORS. …RESPONDENT(S)

WITH

CIVIL APPEAL NO. 9026 OF 2026

WITH

CIVIL APPEAL NOS. 9027-9028 OF 2026

J U D G M E N T

1. These civil appeals arise from the final judgment and order of the High Court of Allahabad[1] by which the writ petitions filed by M/s Gaursons India Pvt. Ltd., hereinafter referred to as the 'first respondent', were allowed in part by setting aside the order issued by the Chief Secretary of the State of Uttar Pradesh and the subsequent demand notice issued by the Housing Commissioner, Uttar Pradesh Avas Evam Vikas Parishad, hereinafter referred to as the 'Housing Board'. The State as well as the Housing Board are in appeal before us.

[1] Writ - C No. 19048 of 2022 & Writ - C No. 29931 of 2022.

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2. This adjudication does not give rise to any question of law, but the high-pitched submissions on behalf of the appellants required us to revisit the facts only to enquire if the High Court had come to the right conclusions. Having examined the matter in detail, we have arrived at the same conclusion as that of the High Court, and as such we have upheld the judgment and order impugned before us. Detailed facts leading to the filing of these appeals are as follows.

3. In exercise of its power under the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965, the Housing Board notified a land development scheme in Ghaziabad on 26.06.1982 and 28.02.1987 called the Vasundhara Scheme. In the said scheme, Khasra Nos. 757, 765, 769, 770, 751/2, 755, 763-766, 757M, 526 and 528, admeasuring 12.047 acres owned by M/s Mohan Meakins Limited and M/s National Cereals Products Limited, predecessors-in-interest of the first respondent, were acquired. An award was passed by the Special Land Acquisition Officer on 27.02.1989, and possession was handed over to the Housing Board on 08.08.1989. Originally, according to the Housing Board, these parcels of land were being used for water purification purposes.

4. On the notifications being challenged by the predecessors-in-interest of the respondents before the High Court of Allahabad, the High Court, vide its order dated 18.03.1993, quashed the notifications issued

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by the Housing Board with respect to the said lands. This order was challenged by the Housing Board, through a Special Leave Petition before this Court, which came to be disposed of in terms of a compromise recorded in its order dated 20.03.1995. The terms of the compromise were that the acquired land of the predecessors-in-interest of the first respondent would be adjusted in the Vasundhara Scheme, with the condition that the 12.047 acres would be utilised for construction pertaining to water purification and the remaining land kept open.

5. In compliance with the order of this Court, an exchange deed came to be executed between the Housing Board and the predecessors-in-interest of the first respondent on 24.09.2004 [“2004 Exchange Deed”]. As per this exchange deed, the Housing Board allotted 3.23 acres of land of Khasra No. 948 and 8.809 acres of land of Khasra No. 1454 in Arthala village, Ghaziabad to the predecessors-in-interest with the stipulation that the consolidated land of the predecessors-in-interest be used for construction works related to water purification and that the remaining land be kept open.

6. On 01.08.2005, the predecessors-in-interest sold their land situated in Khasra No. 948 and Khasra No. 1454 to the first respondent through a registered sale deed for Rs. 12 Cr. In the same year, a dispute arose with regard to the allotment of the said land under the 2004 Exchange Deed,

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when it came to light that an order had been passed by the District Magistrate of Ghaziabad on 21.03.1994, wherein Khasra No. 948 and Khasra No. 1454 had been resumed for the purpose of a bird sanctuary. At this juncture, it is relevant to note that the revenue records showed Khasra No. 948 as a "lake" and Khasra No. 1454 as "banjar" land. The first respondent instituted a writ petition before the High Court of Allahabad seeking directions to the Housing Board to allot alternative land *in lieu* of these two parcels of land reserved for the bird sanctuary. By order dated 13.06.2006, the High Court directed the Housing Board to decide the representation of the first respondent.

7. On 27.07.2006, the Housing Board rejected the representation of the first respondent for allotment of alternative land through an office order on the ground that the sale deed between the predecessors-in-interest and the first respondent described the land as residential, which was in conflict with the stipulation of the 2004 Exchange Deed. This became the subject matter of another round of litigation instituted by the first respondent through a writ petition before the High Court of Allahabad, in which the High Court, by order dated 27.07.2011, directed the authorities to resolve the issues amicably. In the special leave petition filed by the Housing Board against the above-referred direction, this Court, by order dated 02.11.2011, directed the High Court to decide the said writ petition

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within nine months and kept the operation of the order in abeyance in the meantime. On the basis of the directions given by this Court, the High Court of Allahabad, vide its order dated 08.11.2012, set aside the office order issued by the Housing Board on 27.07.2006 and directed the first respondent to make another representation ventilating its grievances before the State of Uttar Pradesh.

8. Pursuant to the order of the High Court dated 08.11.2012, the State of Uttar Pradesh issued a letter to the Housing Board seeking a report on a possible out-of-court settlement. On 18.06.2014, upon receiving the letter, the Housing Board, in its 228th Board Meeting, took a decision to allot another plot of land under the Siddharth Vihar Yojana on payment of requisite land conversion charges and fees. After the State Government granted its no-objection on 22.07.2015, and after the first respondent paid land conversion charges of Rs. 32,45,36,105 to the Housing Board, a second Exchange Deed dated 25.01.2016 [“2016 Exchange Deed”] was executed between the Housing Board and the first respondent.

9. Pursuant to the execution of the 2016 Exchange Deed, possession of the alternative land under the Siddharth Vihar Yojana was handed over by the Housing Board to the first respondent, and after the plan was sanctioned, the first respondent constructed 2,476 general houses and 450 EWS/LIG houses under the Pradhan Mantri Awas Yojana. Upon the

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sale of the houses to the respective homebuyers, third-party rights were created.

10. In the meanwhile, i.e. in the year 2010, one Mr. Suleman Dabbas filed a Public Interest Litigation ["PIL"] in the High Court of Allahabad challenging the action of the Housing Board in allotting Khasra Nos. 948 and 1454, to the predecessors-in-interest as the lands were to be utilised for a bird sanctuary in terms of the order of the District Magistrate, Ghaziabad dated 21.03.1994. The revision preferred by the Housing Board against that order had already been dismissed by the Commissioner, Meerut on 30.03.2009. The High Court took up the PIL and by its order dated 06.09.2010, directed that to secure the bird sanctuary, status quo shall be maintained between the parties.

11. During the course of the writ proceedings, it was contended that the land in question once belonged to the Gram Sabha of the Arthala village and had been resumed for the purpose of establishing a bird sanctuary. On 03.07.2017, the High Court directed the Chief Secretary to conduct an inquiry to examine the nature of the land prior to its resumption by the District Magistrate, the purpose for which the State had resumed Gram Sabha land, and how such land could be exchanged and handed over by the Housing Board to private builders, such as the predecessors-in-interest of the first respondent under the garb of a housing project. The

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Chief Secretary was also directed to fix the responsibility of the officers involved and to initiate civil and criminal action against them, if required.

12. In furtherance of the order of the High Court, the Chief Secretary passed an order dated 25.07.2017, pursuant to which the following steps were taken; a) The District Magistrate of Ghaziabad was directed to initiate proceedings to cancel the resumption order of the Gram Sabha land for the designation of a bird sanctuary, dated 21.03.1994. b) The revenue records were mutated for the land in the Arthala village in the name of the Housing Board through an order of the District Magistrate dated 11.09.2017. c) A three-member committee was constituted by Government Order dated 27.07.2017 to make an inquiry into the matter of the allotment of land to the predecessors-in-interest. A report was submitted, pursuant to which the Principal Secretary, Avas Evam Shahri Niyojan, Anubhag-2, communicated in his letter dated 13.09.2017 that the 2005 Sale Deed between the first respondent and predecessors-in-interest was in violation of the 2004 Exchange Deed and order of this Court dated 20.03.1995.

13. In view of the steps so taken, the proceedings before the High Court in the public interest litigation came to be disposed of as infructuous by order dated 09.01.2018. Constructions being raised by the first

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respondent on the said spot were stopped by an order of the Housing Board dated 27.06.2018.

14. After a quietus was put on the public interest litigation, the first respondent, on 13.08.2018, requested the State of Uttar Pradesh to permit the commencement of construction, which had been halted because of the Housing Board's direction. As no action was taken, a writ petition was preferred seeking a direction to the Chief Secretary to decide its representation dated 06.10.2020, along with providing the procedure for allotment of 450 EWS and LIG flats in the Siddharth Vihar Scheme. On 16.12.2020, the High Court disposed of the writ petition, directing the Chief Secretary to decide the representation of the first respondent within four weeks.

15. Pursuant to the order of the High Court, the Chief Secretary passed the order dated 21.06.2022, directing, inter alia, as follows: i) Khasra No. 948 was designated as a lake. The responsibility of developing the said lake under the Amrit Sarovar Scheme run by the Government of India will be that of the Housing Board and the Municipal Corporation, Ghaziabad, which will help in maintaining the ground water level. ii) The land handed over to the first respondent through the 2016 Exchange Deed has now seen construction of 2,476 houses and 450 EWS/LIG flats. In order to protect the interests of the homebuyers, the land in question shall be

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allotted at the current bulk sale rate to the first respondent. iii) 12.047 acres of land in Khasra No. 1454 may be handed over to the first respondent, to be used only for the construction of S.T.P. or construction related to water purification, and in the form of open and green land.

16. Accordingly, a demand notice dated 15.09.2022 for Rs. 388 crores was issued on behalf of the Housing Commissioner of the Housing Board, calling upon the first respondent to pay the said amount. The order of the Chief Secretary dated 21.06.2022 and the demand notice raised by the Housing Board were challenged by the first respondent before the High Court of Allahabad through two writ petitions.

17. The High Court, vide final judgment and order dated 07.02.2023, allowed the writ petitions and set aside conditions (ii) and (iii) of the order of the Chief Secretary as well as the subsequent demand notice raised by the Housing Board. The High Court also directed that the application of the first respondent for allotment of 450 EWS and LIG houses be decided afresh in light of its observations, preferably within two months. The State Government and the Housing Board of Uttar Pradesh are in appeal against the said judgment.

18. During the pendency of these proceedings, the State Government constituted a Special Investigation Team [“SIT”] whose report was placed before this Court pursuant to the order dated 05.01.2024. According to the

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SIT, not only the first respondent and its predecessors-in-interest but also officials of the Housing Board were involved in fraudulent transactions and were responsible for placing an erroneous proposal before the Housing Board.

Submissions of the Parties

19. Mr. R. Venkataramani, learned Attorney General for India, and Ms. Aishwarya Bhati, learned Additional Solicitor General of India, appearing for the State of Uttar Pradesh, along with Mr. P. N. Misra, learned Senior Counsel appearing for the Housing Board, made the following submissions seeking to set aside the impugned judgment of the High Court; a) The order of this Court dated 20.03.1995 and Clause 4 of the 2004 Exchange Deed clearly stated that the consolidated parcel of lands given to the predecessors-in-interest was to be used only for construction relating to water purification, with the remaining land kept open. Despite these express stipulations, the Sale Deed dated 01.08.2005 contained a recital that the land in question being sold could be utilised for residential purposes; b) The 2016 Exchange Deed was executed without taking into consideration the covenants attached to Khasra No. 948 and Khasra No. 1454 under the 2004 Exchange Deed. Based on the first respondent's misrepresentations, the Housing Board wrongly allocated land under the Siddharth Vihar Scheme for residential purposes, despite the land in question being used only to set up a water purification plant; c) The

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findings of the SIT on the role of the Principal Secretary, Housing, namely that he pressured the Housing Commissioner to convene the Board Meeting of 18.06.2014, which approved the allotment of 12.047 acres under the Siddharth Vihar Scheme to the first respondent at nominal rates, and that the conditions imposed by this Court in its order dated 20.03.1995 on the use of the land were deliberately omitted, indicate that officials of the Housing Board and the first respondent colluded to get the 2016 Exchange Deed executed.

20. Learned counsel appearing for the first respondent, Ms Veenu Singhal, submitted that: a) First respondent's predecessors-in-interest surrendered 12.047 acres in the older Vasundhara Scheme, which the Housing Board retained and developed. As recorded in the Explanatory Note of the 228th Board Meeting of the Housing Board, this was an older scheme possessing higher circle rates and commercial market value compared to the Siddharth Vihar Scheme. The Housing Board fully developed and commercially monetised the said land, creating third-party housing allotments without paying monetary compensation to the predecessors-in-interest of the first respondent and, therefore, it cannot treat the 2016 Exchange Deed as a fresh commercial allotment and demand the bulk sale rate. b) Despite the compromise order of this Court dated 20.03.1995, the original owners did not receive the land for nine

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years. When 2004 Exchange Deed was executed, the original owners were required to give up all claims to compensation. The first respondent, which purchased the land in 2005, then had to litigate until usable land was received. It was because of Housing Board's own irregularities, to which the first respondent was not a party, as observed by the High Court, that the first respondent had to face continuous deprivation and harassment in the form of criminal proceedings, non-allotment of the 450 EWS/LIG Flats, continued withholding of the completion certificate, and a fresh demand of Rs. 388 Crore. c) The first respondent had already paid Rs. 32.45 crores as conversion charges despite the order of this Court dated 20.03.1995 recording that no party would pay any value or compensation for the exchange. Moreover, the first respondent eventually was allotted land under the Siddharth Vihar Scheme, which has a circle rate considerably lower than that of the lands surrendered under the Vasundhara Scheme.

21. We have heard learned counsel for the parties. Before addressing the submissions made on behalf of the parties, it is important to examine this Court's order dated 20.03.1995, the two Exchange Deeds executed by the Housing Board, the sale deed between the predecessors-in-interest and the first respondent, and the order of the Chief Secretary dated 21.06.2022, which govern the field of this round of litigation.

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Compromise Terms as Recorded in the 1995 Order of This Court:

22. This Court, in the Special Leave Petition filed by the Housing Board against the order of the High Court of Allahabad dated 18.03.1993 quashing the notifications issued for acquiring land of the predecessors-in-interest of the first respondent, recorded the compromise arrived at between the parties as part of its order dated 20.03.1995. The said order reads as follows:

> *"Leave granted.*
>
> *The parties have compromised the matter and filed the memo of compromise as part of the record. The terms and conditions of the agreement entered into between them are:*
>
> *1. That U.P. Housing and Development (illegible) is carrying use a scheme known as Vasundhra Scheme and the land for this scheme was notified for acquisition under Section 28 of the U.P. Housing and Development Board Act on 16.6.1982 and under Section 32 of Uttar Pradesh Housing and Development Board Act on 28.2.1987. After taking the permission from the Government under Section 7 and 17 of Land Acquisition Act on 14.5.1987 the Land Acquisition Officer gave award for this scheme on 27.2.1989.*
>
> *2. That the above scheme consists of the land of National Cereals Products Limited, Mohan Nagar, Ghaziabad description of which is given at Schedule I, i.e. land measuring 19-5-10 bigha (12.047 acres) in village Arthala.*
>
> *3. The total land measuring 19-5-10 bigha (12.047 acres) of National Cereals Product Limited will be adjusted in the Scheme with the condition that said land will be used for the construction related with water refining purposes and the rest of the land will be kept open.*
>
> *4. If the Board will deem proper it will take over the said land of the firm adjusting the same in the one corner of the layout plan according to the convenience of both parties. During this transaction no payment will be made to the firm nor the firm will be entitled to charge any expenses from the Board.*

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> 5. *For that exchange of the above land an exchange deed will be executed between the first and the second parties. During the exchange of the land no party will pay any value or the compensation for the same. Any stamp fees if payable in the registration during the exchange of the land the same will be shared by both parties on equal basis.*
>
> *6. The firm will pay the taxes prescribed by the Board and other local authorities for this area.*
>
> *7. The expenses for preparation of this agreement and registration fees and stamp fees incurred will be shared by both the parties on equal basis. Two copies of this agreement will be prepared one copy will remain with first party and the second copy will remain with the second party.*
>
> *The appeal is disposed of in terms of the compromise.*
>
> *No costs."*

23. A bare perusal of the compromise terms recorded above indicates two salient things. The *first* concerns clauses 3 and 4. Clause 3 provides that the total land of the predecessors-in-interest, i.e., 19-5-10 bigha (12.047 acres) "*will be adjusted in the Scheme with the condition that said land will be used for the construction related with water refining purposes and the rest of the land will be kept open*". Clause 4 provides that the Housing Board may take over "*the said land of the firm*" by adjusting it in one corner of the layout plan. Read together, the expression "said land" in clause 3 refers to the acquired land of the predecessors-in-interest, which was to be adjusted within the scheme. It does not refer to any other parcel the Housing Board might later allot. We agree with the High Court on this reading. The condition on use was therefore tied to the acquired land and its adjustment in the Vasundhara Scheme, as the Housing

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Board's own case confirms that the acquired land consisted of ponds used for the oxidation of factory effluents. The compromise does not attach a perpetual restriction to whatever land the Housing Board might eventually give in exchange. The *second*, as recorded in clause 5, is that no party was to pay any value or compensation for the exchange. It is in this context that the 2004 Exchange Deed was executed.

How the 2004 Exchange Deed Failed to Make an Alternative Allotment:

24. The 2004 Exchange Deed was entered into between the Housing Board and the predecessors-in-interest of the first respondent. The relevant clauses of the deed are quoted for ready reference:

> *"4. That the Consolidated land of National Cereal Product Ltd, Mohan Nagar and Mohan Meakins, Ghaziabad, shall be used for construction works related to the water purification and the remaining land shall be kept as open land.*
>
> *5. That the 2nd party shall hand over its 12.047 acres land, as per the details given above, to the Board and the 1st party shall hand over to the 2nd party, the 3.23 acre land as part of the khasra number – 948 and 8.809 acre land as part of the khasra number – 1454 of the village Arthala, i.e. undisputed 12.047 acres land at one side of the Vasundhara Scheme.*
>
> *6. That the 2nd party shall not receive any compensation, solatium, additional compensation or interest, nor will make any reference, regarding the award given by the Special Land Acquisition Officer, nor will file any claim or appeal etc. In other words, the 2nd party will not file any claim of any kind regarding this land."*

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25. As per the compromise terms recorded in this Court's order dated 20.03.1995, there was an obligation on the Housing Board to identify and allot an alternative parcel of land without any encumbrance on it. As rightly noted by the High Court, the Housing Board allotted Khasra No. 948 and Khasra No. 1454 despite an order of the District Magistrate, Ghaziabad resuming the said land for a bird sanctuary. Even the revenue records clearly indicated that Khasra No. 948 was shown as a "Lake" and Khasra No. 1454 as "Banjar" Land. Clearly, no due diligence was exercised by the Housing Board while making the alternative allotment, and the predecessors-in-interest of the first respondent, for no fault of theirs, could not take possession of the said land due to the unlawful allotment made by the Housing Board. Therefore, we agree with the High Court that the 2004 Exchange Deed had failed and the Housing Board was obligated to make an alternative land arrangement for the acquired land. Since the 2004 Exchange Deed does not survive owing to the Housing Board's failure to exercise caution in making the alternative allotment, the stipulation in Clause 4 of the Deed would not bind the first respondent. This aspect is discussed further in the context of the 2016 Exchange Deed. For the same reason, the High Court was justified in setting aside condition (iii) of the Chief Secretary's order dated 21.06.2022, which sought to reimpose the use restriction.

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The Validity of the 2005 Sale Deed between the Predecessors-in-Interest and the First Respondent:

26. Having addressed the validity of the 2004 Exchange Deed, we now deal with the submission regarding the Sale Deed executed between the predecessors-in-interest and the first respondent dated 01.08.2005. Both the State of Uttar Pradesh and the Housing Board contended that no alienation of the said land could have been effectuated, especially when it was earmarked specifically for the water purification plant, and that the High Court wrongly upheld the predecessors-in-interest's right to transfer the allotted property. We are unable to agree with this submission and concur with the High Court, as it is evident that the alternative land allotted was *in lieu* of the predecessors-in-interest's own land acquired by the Housing Board. It is trite law that a person possessing title over a property has the absolute right of transferring and alienating the same to a third person.

27. At this juncture, it is important to look at the devolution of title over the said land from the predecessors-in-interest to the first respondent. Relevant portions of the sale deed are quoted below for ready reference:

> "…..
>
> *From now onwards, the 2nd party buyer company has become the owner and in possession of the above land completely and the buyer company shall have the right to use, utilise and avail the benefit of the sold land in the manner in which it likes, get the layout plans sanctioned,*

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> *enter into an agreement to sell, undertake the construction, execute the gift of the mortgage deed, in which the seller and the legal heirs shall have any right of raising any objection or protests of any kind.*
>
> *…..*
>
> *If any land is given in lieu of the above land by Uttar Pradesh Housing and Development Board to the buyer, at some other place of the compensation is paid, the buyer company shall have the right to receive the same and it will have no concern or relation with the seller. The sold land is residential and no construction has been done on it. Therefore, the sale deed has been executed so that there is a proof and can be used as and when required."*

28. A bare perusal of the sale deed between the predecessors-in-interest and the first respondent indicates that there was not only an effective transfer of the allotted land but also an assignment of the right to receive any other land given by the Housing Board *in lieu* of the above land. Therefore, any subsequent land allotted in lieu of the said land would vest in the first respondent.

The Validity of the Allotment under the 2016 Exchange Deed:

29. Having addressed the contentions regarding the 2004 Exchange Deed and the 2005 sale deed, we now come to the 2016 Exchange Deed which was executed between the first respondent and the Housing Board. Before addressing the submissions of both parties, it is important to recollect some salient facts. The said arrangement followed the order of the High Court dated 08.11.2012, pursuant to which the State Government sought a report from the Housing Board on a possible

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settlement. The Housing Board decided to allot alternative land under a residential scheme called Siddharth Vihar Yojana through the 2016 Exchange Deed. The relevant clauses of the 2016 deed read as follows:

> "*5. That the land received through the above-mentioned exchange deed was utilised by the Board in the Vasundhara Scheme and therefore, the interest and right of the other persons has already been created and inherent in the above land.*
>
> *…...*
>
> *7. That the 12.047 acre land of the khasra number – 948 and 1454 of the village Arthala, which was transferred to National Cereal Product Ltd, Mohan Nagar and Mohan Meakins, Mohan Nagar, Ghaziabad, by the Board, was sold by them to M/S Gaur Sons India Ltd, through the registered sale deed on 01 – 08 – 2005. The above sale deed number 6151, was registered on 01 – 08 – 2005 and the document number – 6151, at page number 50 – 57 of the volume number – 2082 of the Ledger number – 1, of the sub registrar office, 2nd.*
>
> *8. That the 77 – 2 – 0 Bigha land of the village Arthala, acquired for the Vasundhara scheme of the UP Housing and Development Board, was again acquired by the District Magistrate, Ghaziabad, for the Hindon Pakshi Vihar, as per the notification number – 221 (IV)/Seven – DLRC – 93 – 94 dated 21 – 03 – 1994 under section – 117, subsection – 6 of the Uttar Pradesh Jamindari Abolition and Land Management Act – 1950 (UP Act No. 1, 1951). The above land includes the entire land of the khasra number – 948 and 1454 of the village Arthala also. The above-mentioned land acquired by the District Magistrate has been registered in the name of the forest Department, in the revenue records.*
>
> *9. After the 12.047 acre land, received through the exchange deed, by National Cereal Product Ltd, Mohan Nagar and Mohan Meakins, Mohan Nagar, Ghaziabad, was purchased by Gaur Sons India Ltd, the dispute, regarding the above land, between the UP Housing and Development Board and the forest Department came to light. As well the order dated 08 – 11 – 2012 passed by the Hon'ble High Court in the writ petition number – 25091/2008 M/S Gaur Sons India Ltd Vs State of UP & Others, filed before the*

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Hon'ble Allahabad High Court by M/S Gaur Sons India Ltd, the M/S Gaur Sons India Ltd was considered as the interested legal heirs of the sellers and the state government has been directed to dispose of the dispute of the petitioners regarding the land in question in the khasra number – 948 and 1454 of the village Arthala.

10. That the order dated 20 – 03 – 1995 of the Hon'ble Supreme Court has become final and valid on M/S Gaur Sons India Ltd, as per the order dated 08 – 11 – 2012 of the Hon'ble High Court, as M/S Gaur Sons India Ltd, for being the interested right holder of its sellers.

….

12. That through this deed, the residential plot number – 8/BS – 01, with area of 12.047 acre land, sector – 8, Sidharth Vihar Scheme, Ghaziabad, is being transferred by the 1st party to the 2nd party, as per the details indicated a the enclosed layout plan and the above layout plan forms part of this deed…

13. The parties are not paying any value or consideration, in exchange of the land as per the ruling laid down and the instructions issued by the Hon'ble Supreme Court in its order dated 20 – 03 – 1995.

14. That with the execution and registration of this deed, the free hold ownership of the plot number – 8/BS – 01, sector – 8, Sidharth Vihar Scheme, Ghaziabad, shall be vested in the 2nd party (M/S Gaur Sons India Ltd). The undisputed land of the plot number – 8/BS – 01, has been given by the 1st party to the 2nd party without any liability. The possession of the above-mentioned land being given to the 2nd party, has not been given so far. After registration of this deed, the possession of the plot number – 8/BS – 01, sector – 8, Sidharth Vihar Scheme, Ghaziabad, will be handed over by the Board to the 2nd party.

15. That the 2nd party shall be free to undertake any construction, as per their wish and convenience, on the freehold plot number – 8/BS – 01 of the 2nd party. However, before making the residential use of this plot of land, the layout plan will be got approved, as per the rules, from the competent authority of the Board and thereafter, the development charges, layout plan charges, SAR Shelter fees etc, whichever are due, will be deposited by it in the Treasury of the 1st party before sanction of the layout plan as per rules.

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> *16. That the 2nd party shall make the residential use of this plot of land, in such a manner that it does not cause any notions to the persons living in the Sidharth Vihar Residential scheme of the Board."*

The Covenants under the 2004 Exchange Deed Do Not Apply to the 2016 Exchange Deed:

30. The first and foremost submission made by the State of Uttar Pradesh and the Housing Board is that the stipulations of the 2004 Exchange Deed ought to have been carried into the 2016 Exchange Deed and continue to bind the first respondent. We, however, concur with the findings of the High Court, which has rightly held that the terms and conditions of the 2004 Exchange Deed between the Housing Board and the predecessors-in-interest cannot *mutatis mutandis* apply to the first respondent. As held above, the condition in clause 3 of the compromise dated 20.03.1995 related to the acquired land. It was carried into clause 4 of the 2004 Exchange Deed as a covenant of that deed governing Khasra Nos. 948 and 1454. Once that allotment failed for reasons attributable to the Housing Board, the covenant could not survive independently of it.

31. The 2016 Exchange Deed is a fresh registered instrument, executed with the no-objection of the State Government, in respect of a different plot in a different scheme. It describes the said plot as a residential freehold plot (clauses 12 and 14) and expressly permits residential

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construction (clauses 15 and 16). Notably, clause 13 imports only the stipulation that no value or consideration is payable from this Court's order dated 20.03.1995. The parties thus chose which terms of the compromise would govern the substituted land. Binding the first respondent to the stipulations of the 2004 Exchange Deed is, therefore, not sustainable.

Re: Reference To SIT Report And Allegation Of Collusion Between First Respondent And Officials Of The Housing Board

32. The second submission made by the State of Uttar Pradesh and the Housing Board was that there was collusion between officials of the Housing Board and the first respondent which led to the allotment of the land to the first respondent under the 2016 Exchange Deed. For this, they rely on the inquiry report submitted by the SIT, which found some acts of omission by the Principal Secretary, Housing, in favour of the first respondent. On the contrary, Ms. Veenu Singhal, learned counsel for the first respondent, has taken an objection to the institution and the report of the SIT. We express no opinion either on the report or its implications. We keep it open to enable the authority to act in accordance with law.

Re: Directions Of Chief Secretary To Allot The Land At The Rate of Current Bulk Sale By Order Dated 21.06.2022

33. The last submission of the appellants regarding the 2016 Exchange Deed, concerning the demand of Rs. 388 crores at the bulk sale rate for the land on which the first respondent constructed the houses, pertains

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directly to the order dated 21.06.2022, which was challenged by the first respondent before the High Court. For ready reference, the operative part of the said order is quoted below:

> *"In compliance of the order dated 16.12.2020 passed by the Hon'ble High Court in Writ Petition No. 19311/2020 M/s Gaur Sons India Limited Vs. State of UP and Others, District Ghaziabad and the order dated 10.03.2022 passed in respect of Contempt Petition No. 1212/2022 M/s Gaur Sons India Limited Vs. State of UP and Others, the representation dated 06.10.2020, 28.12.2020 and 14.03.2022 of the petitioner M/s Gaur Sons India Pvt. Ltd. is disposed of as follows:*
>
> *……..*
>
> *(ii) M/s Gaur Sons has constructed the flats on the land given by the Uttar Pradesh Housing and Development Board through exchange deed dated 25.01.2016 in favor of M/s Gaur Sons India Pvt. Limited and allotted it to the home buyers. Therefore, to protect the interests of the home buyers, the land in question should be allotted at the rate of the current bulk sale. M/s Gaur Sons India Pvt. Ltd. has kept the Board's funds in fixed deposit at the rate of interest from the date of deposit on all the funds deposited in the Board. The amount of M/s Gaur Sons India Pvt. Ltd. will also be adjusted at the same rate."*

33.1. The first respondent submits that under the Siddharth Vihar Yojana, it has lower circle rates than the lands acquired by the Housing Board for the Vasundhara Scheme, which it has monetised, and that Rs. 32.45 crores had already been paid as conversion charges at the time of the allotment, despite the order of this Court dated 20.03.1995 providing that no party would pay any value or compensation. On the other hand, the

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State of Uttar Pradesh has contended that if the bulk sale rate is not applied to the first respondent, it would cost the exchequer more than Rs. 388 crores.

33.2. Clause 13 of the 2016 Exchange Deed records that the parties are not paying any value or consideration for the exchange, in terms of the compromise as recorded in the order of this Court dated 20.03.1995. Moreover, as rightly pointed out by Ms. Veenu Singhal, learned counsel for the first respondent, the disparity in circle rates for the land acquired and the land allotted, as well as the conversion charges already paid by the first respondent, leave no ground for the Housing Board to demand anything more from the first respondent. Further, clause 5 of the 2016 Exchange Deed records that the acquired land was utilised by the Housing Board in the Vasundhara Scheme and that third-party rights have been created over it. The Explanatory Note of the 228th Board Meeting, in turn, record that the Vasundhara Scheme is older and fully developed, and that its circle rate is considerably higher than that of the Siddharth Vihar Scheme. The Housing Board has thus retained and developed the acquired land, which is of greater value than the land it gave in exchange, without paying any compensation to the predecessors-in-interest. It cannot, in these circumstances, demand a further price from the first respondent for the substituted land. Under these circumstances, the

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decision of the High Court in setting aside condition (ii) need not be interfered with.

34. Having considered the matter in detail, we are of the opinion that there is no merit in these appeals. Civil Appeal Nos. 9025 of 2026, 9026 of 2026 and 9027-9028 of 2026 filed against the judgment and order in Writ-C No. 19048 of 2022 and Writ-C No. 29931 of 2022 dated 07.02.2023 are therefore dismissed. In these circumstances, the two months' time granted by the High Court to the State of Uttar Pradesh for allotment of the 450 EWS/LIG Flats is extended by three months from the date of our judgment and order. Parties shall bear their own costs.

35. Pending applications, if any, shall stand disposed of.

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

……...J.
[**ALOK ARADHE**]

NEW DELHI;
NOVEMBER 17, 2026.