DELHI DEVELOPMENT (BETTERMENT CHARGE ARBITRATION) RULES, 1961

G.S.R. 1111, dt. 09.09.1961, published dt. 09.09.1961

In exercise of the powers conferred by sub-section (1) of section 56 of the Delhi Development Act, read with clauses (l) and (r) of sub-section (2) of that section, the Central Government hereby makes the following rules, namely:—

1. Short title

These rules may be called the Delhi Development (Betterment Charge Arbitration) Rules, 1961.

2. Definitions

In these rules, unless there is anything repugnant in the subject or context —

(a) "Act" means the Delhi Development Act, 1957 (61 of 1957);

(b) "arbitrators" means the Arbitrators appointed by the Central Government under section 39 of the Act;

(c) "Authority" means the Delhi Development Authority constituted under the Act;

(d) "objector" means a person on whom notice has been served in respect of land to be assessed under section 38 of the Act and who dissented from or has failed to give the Authority information of his acceptance of the assessment made by the Authority, and "object" with its grammatical variations, shall mean accordingly, dissenting from or failing to accept the assessment made by the Authority.

3. Reference to arbitrators

(1) As soon as may be, after the assessment made by the authority of the amount of betterment charge payable by any person in respect of any property has been objected to the Authority shall refer for the determination by the arbitrators, of the betterment charge, the person by whom it is payable and the apportionment, if any, of the betterment charge among the persons liable.

(2) In making the reference, the Authority shall state for the information of the arbitrators, in writing—

(a) the situation and extent of the land regarding which the betterment charge is to be determined;

(b) the names of the persons by whom betterment charge is payable;

(c) the amount of betterment charge payable by each person;

(d) the objection, if any, filed by the objector;

(e) a brief statement of the basis of the assessment of the amount of betterment charge.

4. Service of notice

(1) The arbitrators shall thereupon cause a notice specifying the day on which and the place where the arbitrators will proceed to determine the betterment charge and the person or persons by whom it is payable and directing their appearance before the arbitrators, to be served on the following, namely:—

(a) the Authority,

(b) all objectors.

(2) The arbitrators may, in addition, give a public notice in the manner prescribed in section 44 of the Act addressed to all objectors with or without naming them of the matters referred to in sub-rule (1). The publication of such notice shall be deemed to be a service of the notice on all objectors.

5. Appearance before the arbitrators

The Authority shall be entitled to appear through such officer or agent may be appointed by it in this behalf or through legal practitioners authorised by it and the objectors shall be entitled to appear personally or through their authorised agents or pleaders.

6. Powers of the arbitrators

The arbitrators shall, for the purpose of holding any enquiry under these rules, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) administering to any party in the arbitration such interrogatories as may, in the opinion of the arbitrators, be necessary.

7. Statement by the objectors

On the first day of hearing, or on any subsequent day which the arbitrators may appoint in this behalf, each objector shall file a statement in writing stating the grounds on which he objects to the assessment by the Authority.

8. Procedure in case of non-attendance of one or more objectors

If any of the objectors does not appear on the day of hearing or on any other day to which the hearing may have been postponed, the arbitrators may proceed *ex parte* against such objector:

Provided that where the hearing has been adjourned and the objector, at such hearing, appears and shows sufficient cause for his previous non-appearance, he may, upon such terms as the arbitrators direct as to costs or otherwise, be heard as if he had appeared on the day fixed for his appearance.

9. Adjournment

(1) The arbitrators may from time to time adjourn the proceedings.

(2) The arbitrators may, if sufficient cause is shown, at any stage of the proceedings grant time to the parties or any of them, and may make such order as they think fit with respect to the costs occasioned by such adjournment.

10. Adjournment after objections for further hearing

After the day fixed for the filing of the objections the arbitrators shall adjourn the proceedings to a subsequent day for further hearing.

11. Right to begin

The Authority shall have the right to begin and shall state its case to produce their evidence, if any.

12. Statement and production of evidence by objectors

(1) The objectors, in the order directed by the arbitrators, shall then state their cases and produce their evidence, if any.

(2) The Authority may then produce its evidence, if any, in rebuttal.

13. Record of the proceedings

The arbitrators shall record the summary of evidence tendered before them. The summary of such evidence and any relevant documents filed before them shall form a part of the record of the proceedings.

14. Arguments

After the conclusion of the evidence of the parties the Authority shall be heard in support of its case and the objectors, in the order directed by the arbitrators, in support of their case. The Authority shall be entitled to reply generally on the whole case and also regarding each objector individually.

15. Continuity of proceedings

Where the Central Government appoints another person to take the place of an arbitrator who has died, resigned or is removed or refuses or neglects to perform his duties or becomes incapable of performing the same, then notwithstanding such change, the proceedings shall be continued and shall be deemed to have taken place as if there has been no change in the arbitrators.

16. Powers of arbitrators to inspect

The arbitrators, may, at any stage of the proceedings, inspect any property in respect of which the betterment charge is to be determined.

17. Award

(1) The arbitrators, after hearings have been concluded, shall pronounce their award on the day fixed for the purpose and shall communicate the substance thereof to each objector.

Explanation. — The award may be in part dealing with different objectors or different sets of objectors whose objections involve substantially the same question for determination.

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(2) The award shall specify the betterment charge regarding each property and apportionment, if any, of such charge between the owner of the property or any other person having an interest therein, and shall state briefly the grounds on which the decision of the arbitrators is based.

(3) The award shall also state the amount of costs incurred on the proceedings and by whom and in what proportions they are to be paid.

(4) When the assessment of the Authority is not upheld the cost shall ordinarily be paid by the Authority unless the arbitrators are of opinion that the assessment by the Authority was not excessive or that there were reasonable grounds for the assessment by the Authority.

18. Award to be signed

(1) The award shall be dated and signed by arbitrators and, when once signed, shall not afterwards be altered or added to, except as provided in sub-rule (2).

(2) Clerical or arithmetical mistakes in the award or errors arising from any accidental slip or omission may be corrected by such officer as may be appointed by the Central Government in this behalf on his own motion or on the application of any of the parties.

19. Time for making the award

The arbitrators shall make the award within six months of their entering upon the arbitration:

Provided that the Central Government may, if it thinks fit, whether the time for making the award has expired or not, enlarge from time to time for making the award.

20. Award to be sent to the authority and the Central Government

(1) As soon as may be but not later than one month after the pronouncement of the award, the arbitrators shall send the award to the Authority, and a copy of it to the Central Government.

(2) Any objector may, on application and payment of the fees as are prescribed by sub-rule (3), obtain a copy of the award from the Authority.

(3) Fees for a copy of the award shall be charged at the following rates, namely:—

(i) for the first 200 words or under : 00.80 n.p.;

(ii) for every additional 100 words or fraction thereof : 00.80 n.p;

(iii) in case the copy is required urgently : double the above rates.

21. Fees of the arbitrators

The Authority shall pay to the arbitrators such fees as the Central Government may fix.