

CHAPTER – 9

SUB-DIVISION OF PLOTS

A large number of plots leased in the initial stages of construction of new capital of India of New Delhi, contained an area of an acre or more. Soon after the lease were granted, requests started coming in for permission for sub-dividing the plots for constructing more independent building on one or more separated portions of the leased land. Such sub-division was originally permitted on payment of additional premium equal to half the difference between the auction price of the whole site and the assumed commercial or residential market value on the date of sanction of sub-division having regard to use to which the land was intended to be put when sanction was given. The ground rent was also corresponding enhanced.

In 1951 the matter was re-considered by the Government of India and it was decided to forego Government's claim to a share of the unearned increase where a lessee of a site sought permission to sub-divide it for the purpose of himself erecting more buildings on leased land. It was further decided that the annual ground rent of each sub-divided portion built upon or to be built upon be assessed and charged at the rate of 2 ½ % of the current market value of each plot and in the event of the lessee transferring his interest in one or more sub-divided plots before or after construction, 50 % of unearned increase in the value of land be also recovered by way of additional premium.

In the light of the above policy, sub-division of plots for the purpose of construction of additional building shall be allowed on the following terms and conditions:-

- (i) The area of each sub-divided plot shall not be less than that specified in the zonal plan of the area. Approval of the DDA shall be obtained for the proposed sub-division.
- (ii) Each sub-divided plot shall have a direct access to the main road and service road.
- (iii) Only single storeyed building with one residential unit or a double storeyed building with a barsati on top with one or two residential flats

in all as may be permitted under the Municipal bye-laws, with prescribed set back, shall be constructed on each sub-divided plot.

- (iv) Ground rent shall be payable in the following manner:-
 - (a) In respect of the sub-divided portion(s) of land to be built upon annual ground rent shall be reduced proportionately to the reduction in area.
 - (b) In respect of the remaining portion of the original plot the original annual ground rent shall be reduced proportionately to the reduction in area.
 - (c) Periodical revision of annual ground rent shall be done in accordance with the provisions of the original lease deed.
- (v) Execution of supplemental lease deed providing for the recovery of charges mentioned above as also the recovery of unearned increase and the preemptive right of the lessor to purchase the property in the event of sale/transfer of any of the sub-divided plots to be built upon.

N.B.1: If the lessee applied for permission for sale/transfer of a sub-divided plot to be built upon, simultaneously with sub-division, 50 % of the increase in the value of land of such sub-divided plot shall be recovered in advance by way additional premium and not as unearned increase.

N.B.2: Sale of one of the two or more housing units or plots sold/leased to one person by the Department of Rehabilitation does not amount to sub-division of the property and hence no sub-division charges are recoverable upon such sale.

(3340-L/64 dt. 6.6.1964 Coord., (178)ASC-18 dt. 2.2.1966)

N.B.3: In a case where the lease is unrestricted and the lessee transfers a portion of the plot to another person no sub-division charges can legally be recovered from the lessee upon such transfer. In such a case the conditions application in cases of sub-division i.e. (i) to (v) above shall be imposed while sanctioning plans for the creation of the new building on the sub-divided plot.

N.B.4: Such division and partition are synonymous terms and hence an covenant providing for prior permission of the lessor to any sub-division of the premises is attracted by partition without permission. (M/Law's Advice in Shop No. 54, Moti Nagar, 33466/67, dt. 10.7.1967)

2. PROCEDURE FOR GRANT OF PERMISSION FOR SUB-DIVISION OF PLOTS:

On receipt of an application of a lessee seeking permission for sub-dividing a plot, the concerned Lease or Property Section shall check whether there are any breaches of the terms of lease already in knowledge. If so, no action shall be taken on the application till the breaches are removed, paid or where a lessee is unable to remove the breaches, till he makes payment of all dues upto the ensuing 14th January or 14th July, whichever is earlier and also furnishes an undertaking to get the breaches regularised on payment of charges till they are removed.

If there are no breaches already in the knowledge of the lessor or they have been removed or regularised and the undertaking furnished, Lease Section shall refer the matter to Technical Section for scrutiny of the proposal. The Technical Section shall, in the first instance, carry out an inspection of the premises to find out whether there are any breaches of the terms of lease and also to collect data necessary for considering the proposal of sub-division. If any objectionable breaches of the terms of lease are noticed upon such inspection the file shall be returned to the concerned lease or Property Section for taking action for the removal of breaches.

If the property is free from breaches, the Technical Section shall examine whether the proposed sub-division could be permitted in accordance with the provisions of the Zonal Development Plan of the area and bye-laws of the local body and record their views on the file and return the same to the Lease or Property Section concerned through Engineer Officer. Where, in a case, the Zonal Development Plan of the area has not been finalised and approved, the Technical Section make a note to that effect and also record their views with regard to the proposal of sub-division, on the file and return it to the concerned Lease or Property Section.

If Technical Section certifies that the proposed sub-division could be permitted the concerned Lease or Property Section shall send a reply to the lessee in the form at Annexure.

If the reply to the letter sent to him, the lessee asks for revised terms of lease, the terms and conditions shall be drawn. The amount of additional premium/ground rent, shall as in the case of permission for sale, be calculated by Senior Draftsman and checked by the Accounts Section.

After the terms are drawn and approved by the concerned officer, the file shall be referred to the Finance Division for their concurrence. On receipt of the file from the Ministry, the terms shall be communicated to the lessee. If he accepts the terms and makes payment of all dues, action shall be taken to prepare a supplemental lease in the same manner as in the case of original Perpetual Lease.

In a case where Technical Section indicates that the Zonal Plan of the area had not been finalised, but otherwise there is no objection to allowing sub-division of the plot as proposed by the lessee, clearance of the Delhi Development Authority shall be obtained before processing the case further.

Where sub-divided units cannot be built upon as independent units under the bye-laws of the local body or where Technical Section advises against allowing sub-division, the lessee shall be informed accordingly.