Before Viney Mittal & H.S. Bhalla, JJ.

M/S GANPATI SHOPPING MALL PVT. LTD.,—*Petitioner*

versus

STATE OF HARYANA AND OTHERS,—*Respondents*

C.W.P. NO. 11783 OF 2004

11th July, 2006

Constitution of India, 1950—Art. 226—Allotment of a free hold shopping Mall to petitioner by HUDA in an open auction—HUDA decreasing Floor Area Ratio to 125% from 150% as mentioned in the advertisement—Respondents' plea that there was a printing error in the advertisement—Neither any corrigendum issued nor a correction of FAR stipulated in the pamphlet issued by HUDA at the time of auction—Principles of promissory estoppel—Applicability of—Once petitioner acted on the representation of respondents as contained in advertisement, participated in auction and deposited a huge amount and also incurred other expenses it is not open to respondents to back out from the said stipulation at a later stage—Respondents bound to permit an Far of 150%—Petition allowed.

Held, that in the advertisement dated April 22, 2004, FAR of 150% with a maximum permissible height of 21 meters was mentioned. It was also mentioned that upto 50% of FAR can be used for commercial activities like Convention Centre, Exhibition Hall, Cultural Centres, Departmental Stores etc. The respondents have, however, maintained that there was a printing error in the said advertisement and actually the FAR in the site in question was 125% as already approved in the Zoning Plan. The respondents have maintained that an announcement was made by Chuni Lal, Junior Engineer at the spot. A strong reliance has been placed on the affidavit sworn in by aforesaid Chuni Lal. The alleged announcement made by Chuni Lal pertains to a very important aspect of the auction. The entire feasibility of the project depended upon FAR. It is not believable that the department would remain satisfied by making such an announcement orally at the spot without there being any other supporting document. No record whatsoever has been appended by the respondents along with the written statement, which could lead to an inference that any such announcement, as

claimed by the respondents, was in fact made at the spot. Nothing has been produced in this regard. In these circumstances, when concededly respondents Nos. 3 & 4 were present at the spot, it cannot be believed that a Junior Engineer of the office of the Estate Office would make such an important announcement. We are convinced that the aforesaid stand has been taken by the respondents merely with a view to resist the claim of the petitioner—Company and as an after thought.

(Para 16)

Further held, that concededly, pamphlets were issued by respondents No. 3 and 4 at the time of auction on April 30, 2004. Various terms and conditions have been stipulated in the said pamphlet. The correction of FAR, as alleged by the respondents, has not been stipulated in the said pamphlet at all. In these circumstances, when the aforesaid pamphlet was circulated at the time of auction of April 30, 2004, if any further correction was liable to be made or any other stipulation was liable to be inserted, then in such a situation the aforesaid correction/stipulation would also have been circulated along with the pamphlets. Concededly no such action was taken by the respondents. In these circumstances, we are convinced that the respondents have adopted the stand of a printing error only when they have been faced with the claim of the petitioner—Company made in the present petition.

(Para 17)

M. L. Sarin, Senior Advocate, with Ms. Alka Sarin, Advocate, *for the petitioner.*

Vandana Malhotra, Advocate, *for the respondents.*

JUDGMENT

VINEY MITTAL, J

(1) The petitioner-Company has approached this Court for the issuance of a writ a *mandamus* directing the respondents to issue a Zoning Plan mentioning the Floor Area Ratio (hereinafter referred to as the "FAR") as 150% instead of 125%, as detailed in the Zoning Plan, Annexure P/5. Further directions have been sought against the respondents to issue an amended allotment letter/re-allotment letter after mentioning the rate of interest at 11% and 14% (at items

No. 1 and 18 thereof), as per terms and conditions of the advertisement dated 22nd April, 2004, instead of 15% and 18%, as mentioned in the allotment letter/re-allotment letter. The petitioner-Company has also sought directions against the respondents to receive the balance amount from the petitioner with 60 days from the date of issue of the correct Zoning Plan.

(2) An advertisement dated 22nd April, 2004 was issued by the Haryana Urban Development Authority (in short "HUDA"), respondent No. 2, in the leading newspapers i.e. The Tribune, Indian Express, Bhasker, Punjab Kesri, Hindustan Times and Times of India. The aforesaid half page advertisement dwelled upon auction of free hold Shopping Malls and Multiplexes at Kurukshetra, Ambala, Karnal and Panipat. A copy of the aforesaid advertisement has been appended as Annexure P/1 with the present petition. Salient features/zoning parameters were also indicated in the said advertisement. The ground coverage for the Shopping Malls and for Multiplexes was provided. The said advertisement also indicated FAR. With regard of Shopping Malls, Floor Area Ratio (FAR) was indicated as 125% whereas for multiplexes, the Floor Area Ratio was indicated as 150%. Maximum permissible height for a Shop Mall was indicated as 30 metres whereas for Multiplex, it was indicated as 21 metres. For Multiplex, it was also indicated that "up to 50% of FAR can be used for commercial activity like convention centre, exhibition hall, cultural centres, departmental stores etc."

(3) With regard to the aforesaid advertised site of a multiplex in Sector-7 at Ambala, the area of the site was indicated 2086 sq. metres and the date/time of auction was indicated as 30th April, 2004 at 11.00 a.m.

(4) The petitioner-Company maintains that at the time of the aforesaid auction of 30th April, 2004, the Administrator, Haryana Urban Development Authority, Panchkula and Estate Officer, Ambala, respondents No. 3 and 4, respectively, were present at the spot. After introducing themselves to the intending bidders, respondent No. 4, read out the terms and conditions, as had already been advertised, in the advertisement, Annexure P/1. The intending bidders were also informed that for participation in the auction proceedings, a prospective bidder was required to deposit the initial amount of Rs. 5.00 lacs. It

was also informed that after the completion of the auction, the aforesaid amount of Rs. 5.00 lacs would be returned to each one of the bidders. The reserved price of the said site was also announced as Rs. 3.65 crores. The petitioner-Company maintains that all the intending bidders, who were present at the site gave their details of addresses etc. and deposited the amount of Rs. 5.00 lacs each for participating in the auction proceedings. The petitioner-Company also deposited an amount of Rs. 5.00 lacs. All the prospective bidders were issued tokens for the purpose of identification at the time of bid, for the facility of recording proceedings. It is also maintained by the petitioner-Company that the aforesaid respondents No. 3 and 4 also distributed pamphlets at the time of the auction. A copy of the pamphlet dated 30th April, 2004 issued at the time of auction proceedings of multiplex site at Ambala City has been appended as Anexure P/2 with the present petition.

(5) The petitioner-Company has pleaded that after the proceeding of auction qua the aforesaid site commenced, various bidders gave their bids. The petitioner-Company offered the highest bid of Rs. 5.04 crores. Since the bid offered by the petitioner-Company was the highest, therefore, the same was accepted at the site. The petitioner-Company, accordingly, deposited 10% of the bid amount on 30th April, 2004 itself. Thereafter, the Estate Officer, HUDA, Ambala, respondent No. 4 issued an allotment letter to the petitioner on 24th May, 2004. The balance amount of 15% was also deposited by the petitioner, thus making the total deposit of 25% of the allotment price, being an amount of Rs. 1.26 crores. The petitioner-Company has pleaded that initially the bid was given by Vinod Goel, on behalf of the petitioner-Company and since the petitioner was incorporated later on, therefore, a request for re-allotment was made to the Estate Officer to re-allot the said plot in favour of the incorporated company i.e. the petitioner-Company. The aforesaid request of the petitioner-Company was accepted and on a payment of Rs, 2,50,320 as transfer fee deposited on 18th June, 2004, a re-allotment letter dated 21st June, 2004 was issued in favour of the petitioner-Company. A copy of the aforesaid re-allotment letter in favour of the petitioner-Company has been appended as Annexure P/4. It has been maintained by the petitioner-Company that clause 1 of the aforesaid allotment letter/re-allotment letter mentions that the instalments were to include 15% interest on balance from the date of offer of possession and in case of default an additional interest at the rate of 18% per annum would be chargeable.

It has been maintained by the petitioner-Company that the aforesaid stipulation *qua* the interest at the rate of 15%/18% was contrary to the advertisement which provided for the levy of interest at the rate of 11%/14%.

(6) After the re-allotment letter was issued in favour of the petitioner-Company, it applied to the District Town Planner, Ambala City for issuing a copy of the Zoning Plan on 22nd June, 2004 for enabling the petitioner-Company to proceed with the project. A copy of the Zoning plan was, accrodingly, issued to the petitioner-Company. It has been pleaded by the petitioner-Company that on receiving the aforesaid zoning plan it was shocked to find that FAR allowed for the multiplex purchased by it was indicated as 125% whereas in the advertisement, FAR was mentioned as 150%. The petitioner-Company has pleaded that it had assessed the viability of the project on the basis of FAR 150% as mentioned in the advertisement and had participated in the auction proceedings and had deposited 25% of the auction amount on the basis of the aforesaid understanding. Consequently, the authorised representative of the petitioner-Company met the Chief Administrator, HUDA, respondent No. 2 and brought the entire matter to his notice. The petitioner-Company maintains that respondent No. 2 assured it of immediate corrective measures. On that assurance from respondent No. 2, the petitioner-Company pursued with the implementation/execution of the project for construction of a multiplex. Certain other defects like existence of an electric poll etc. have also been pointed out by the petitioner-Company which, at this stage, are not relevant to be noticed, on account of the fact that it is agreed between the parties that the aforesaid defects stand already removed. The petitioner-Company further maintains that it engaged M/s. Gautam and Gautam Associates, Faridabad, architects and consultants to prepare the building plans by paying an initial sum of Rs. 1,11,000 on 7th June, 2004. The building plans prepared by the aforesaid architects/consultants were submitted in the office of the Estate Officer, HUDA by the petitioner-Company alongwith a demand draft of Rs. 65,910 as the requisite fee on 12th July, 2004. However, inspite of the assurance given by the Chief Administrator, the Zoning Plan has not been revised so far. Consequently, no action, whatsoever was taken on the aforesaid building plans submitted by the petitioner-Company. The petitioner-Company has also detailed out that FAR of 125% had made the entire project impractical and not feasible/viable

since the bid amount of Rs. 5.04 crores was offered by the petitioner-Company taking into consideration FAR of 150%. Various details with regard to non-feasibility of the project and, consequent, loss to the petitioner-Company have also been indicated in the petition.

(7) It is in this back ground that the petitioner-Company has approached this court seeking directions, as have been noticed in the opening paragraph of the judgment.

(8) The claim of the petitioner has been contested by the respondents. A written statement has been filed on behalf of respondents No. 2 and 3. The various facts detailed out by the petitioner-Company with regard to the advertisement Annexure P/1, issuance of the pamphlets Annexure P/2 and the conduct of the auction proceedings on 30th April, 2004 have not been disputed. However, it has been maintained by the said respondents that in the advertisement dated 22nd April, 2004, the FAR of 150% was mentioned on account of a printing mistake, whereas the actual FAR in the site in question was 125% of the total area as per the approved Zoning Plan. The said respondents have also maintained that at the time of auction on 20th April, 2004, one Chuni Lal son of Narain Dass, Junior Engineer, Urban Estate, Ambala had made an announcement at the spot that the FAR of the site in question was 125% instead of 150% wrongly printed in the advertisement. It has also been maintained that the bidders who were present at the site were shown the Zoning Plan dated 9th April, 2003 which clearly mentioned that the FAR of the site in question was 125%. According to the said respondents, the auction proceedings were started only after the aforesaid announcement had been made by Chuni Lal. It has also been alleged by the said respondents that no objection was raised by the bidders to the aforesaid correction at the time of auction.

(9) With regard to the rate of interest of 15% per annum and the penal interest on default being 18% per annum mentioned in the allotment letter/re-allotment letter, being contrary to the terms and conditions mentioned in the advertisement, the said respondents have maintained that rate of interest has been mentioned in the allotment/re-allotment letter by a mistake and,—*vide* a communication dated 27th August, 2004, the petitioner-Company had been communicated that the interest chargeable from it would be 11%/14%. The aforesaid

communication dated 27th August, 2004, has been appended as Annexure R/2 with the written statement filed by the respondents. The respondents have also appended an affidavit of Chuni Lal, son of Narain Dass, Junior Engineer, Estate Office, HUDA, Ambala as Annexure R/4 with the written statement. In the aforesaid affidavit, the said deponent, Chuni Lal, has stated that "I had informed all the bidders before the auction held on 30th April, 2004 about the error/ mistake of the FAR 150% in the advertisement. I clearly informed all the bidders that as per the zoning plan received from the office of District Town Planner, FAR was 125%."

(10) The petitioner has filed a replication to the aforesaid written statement of respondents No. 2 and 3. Various facts pleaded in the writ petition have been reiterated. It has been denied that any corrigendum was ever issued by the respondents, It has also been denied that respondents No. 2 and 3 or any other officer/official had made any announcement at the time of auction with regard to reduction of FAR. The petitioner-Company has specifically pleaded that in respect of various other multiplexes, similarly situated as the one purchased by the petitioner, at Jind and Faridabad, FAR of 150% was adopted. It has been specifically pleaded by the petitioner-Company that the aforesaid multiplex being constructed at Faridabd was also being designed by the same architect, M/s. Gautam and Gautam Associated, Faridabad who had been engaged by the petitioner-Company and, therefore, the plea being raised by the respondents that there was a printing error in the advertisement when FAR 125% had been mentioned was wholly an after thought erroneous and was not justified. Alongwith the replication, advertisement, Annexure P/13, with regard to auction of a multiplex at Jind has been appended wherein FAR of 150% had been indicated.

(11) We have heard Shri M. L. Sarin, learned senior counsel appearing for the petitioner and Ms. Vandana Malhotra, learned counsel appearing for the respondents and with their assistance have also gone through the record of the case.

(12) Shri M. L. Sarin, learned senior counsel appearing for the petitioner-Company has vehemently argued that the advertisement dated 22nd April, 2004 has been issued with regard to auction of shopping malls/multiplexes in various cities in Haryana. It was clearly

indicated in the said advertisement that FAR for a multiplex was to be 150%. On that basis, learned counsel maintains that all the bidders had participated in the auction proceedings conducted on 30th April, 2004 on the clear understanding that FAR for the aforesaid multiplex was to be 150% and it was on that basis that the petitioner-Company had given the highest bid of Rs. 5.04 crores, when the reservation price indicated was only 3.65 crores. Learned counsel has also pointed out that the plea raised by the respondents in the written statement that some announcement of correction of FAR to 125% was made at the site is only an after thought in as much as, no such announcement was made at the spot by anybody and, in any case, when the Administrator, HUDA, respondent No. 3 and the Estate Officer, HUDA, Ambala, respondent No. 4, were personally present, then it was absolutely unbelievable that Chuni Lal, who was merely a Junior Engineer of Urban Estate, HUDA would make any announcement on such an important issue. Learned counsel has also vehemently argued that the respondents had initially attempted to vary the rate of interest chargeable from the petitioner-Company when in the allotment letter/ reallotment letter interest was indicated as 15%/18% per annum, as against 11%/14% per annum indicated in the advertisement, but later on, while filing the written statement, the respondents had admitted that the aforesaid higher interest had been wrongly indicated in the allotment/re-allotment letter. It is, thus argued that the respondents were merely trying to take a stand as was convenient to them. Learned counsel has also vehemently argued that once the petitioner-Company had participated and was a successful bidder and had deposited 25% of the amount being more than 1.26 crore, then the respondents could not be heard to claim that the FAR *qua* the site in question was only 125%, inasmuch as, the petitioner-Company has already acted upon the representation made by the respondents as indicated in the advertisement. Learned counsel has contended that the controversy in question would squarely attract the principles of promissory estoppel and therefore, the claim made by the petitioner-Company in the present petition was liable to be accepted.

(13) On the other hand Ms. Vandana Malhotra, learned counsel appearing for the respondents has contended that there was a printing error in the advertisement dated 22nd April, 2004 when FAR of 150% was mentioned, rather than 125% and the said error was corrected when Chuni Lal, Junior Engineer had made

an announcement at the time of the auction. According to the learned counsel, the auction proceedings were commenced only after the announcement in this regard was made by the aforesaid Junior Engineer. Learned counsel has specifically placed reliance upon the affidavit, Annexure R/4, dated 12th July, 2004 sworn in by Chuni Lal. Ms. Malhotra has also argued that as per the policy of HUDA, FAR of 150% is allowed for a multiplex site situated in the City Centre whereas for other multiplexes only FAR of 125% is allowed. Consequently, it has been maintained by the learned counsel that FAR 125% *qua* the site in question was wholly as per the policy of HUDA.

(14) We have duly considered the rival contentions of the learned counsel for the parties.

(15) As noticed above, the respondents have already conceded the claim made by the petitioner-Company *qua* the interest chargeable from it, mentioned in the allotment/re-allotment letter. As per communication Annexure P/2, the aforesaid claim made by the petitioner-Company has been conceded and the petitioner-Company has been informed that the rate of interest chargeable from it would be 11% per annum instead of 15% per annum and similarly the rate of interest payable on delayed instalment would be 14% instead of 18% per annum. Consequently, the aforesaid grievance of the petitioner-Company stands already redressed and, therefore, the said relief claimed by it in the present petition has been rendered infructuous.

(16) With regard to the main grievance made by the petitioner-Company qua the decrease of FAR, it is not in dispute that in the advertisement Annexure P/1 dated 22nd April, 2004, FAR of 150% with a maximum permissible height of 21 meters was mentioned. It was also mentioned that upto 50% of FAR can be used for commercial activities like Convention Centre, Exhibition Hall, Cultural Centres, Departmental Stores etc. The respondents have, however, maintained that there was a printing error in the said advertisement and actually the FAR in the site in question was 125%, as already approved in the Zoning Plan. The respondents have maintained that an announcement was made by Chuni Lal, Junior Engineer at the spot. A strong reliance has been placed on the affidavit, Annexure R/4 sworn in by aforesaid Chuni Lal. However, we find that immediately on issuance of the

allotment/re-allotment letter on 21st June, 2004 and on obtaining the Zoning Plan, the petitioner-Company had made a representation to the Chief Administrator, HUDA, respondent No. 2 , on 22nd June, 2004 itself. It is also claimed that a meeting with the Chief Administrator, HUDA was also held wherein the grievance with regard to reduced FAR was made. Another representation was made to the Chief Administrator on 6th/7th July, 2004, a copy whereof has been appended as Annexure P/10 with the present petition. A similar representation was again made on 12th July, 2004 (Annexure P/11). The petitioner even filed a detailed representation before the Financial Commissioner and Secretary, Town and Country Planning, respondent No. 1 on 15th July, 2004, Annexure P/12. None of the aforesaid representations were ever responded to by the respondents. The present writ petition was filed by the petitioner-Company on 5th August, 2004. It is for the first time that along with the written statement, an affidavit of Chuni Lal, Junior Engineer dated 12th July, 2004 has been filed as Annexure R/4. The aforesaid affidavit is in fact a self-serving statement made by an official of the department in favour of the department. The alleged announcement made by Chuni Lal pertains to a very important aspect of the auction. The entire feasibility of the project depended upon FAR. It is not believable that the department would remain satisfied by making such an announcement orally at the spot without there being any other supporting document. No record whatsoever has been appended by the respondents along with the written statement, which could lead to an inference that any such announcement, as claimed by the respondents, was in fact made at the spot. Nothing has been produced before us in this regard. In these circumstances, when concededly Administrator, HUDA, respondent No. 3, and the Estate Officer, HUDA, Ambala, respondent No. 4 were present at the spot, it cannot be believed that a Junior Engineer of the office of the Estate Office would make such an important announcement. We are convinced that the aforesaid stand has been taken by the respondents merely with a view to resist the claim of the petitioner-Company and as an after thought.

(17) There is one more reason for us to come to the aforesaid conclusion. Concededly, pamphlets were issued by respondent No. 3 and 4 at the time of auction on 30th April, 2004. A copy of the aforesaid pamphlet has been appended as Annexure P/2 with the present petition. Various terms and conditions have been stipulated

in the said pamphlet. The correction of FAR, as alleged by the respondents, has not been stipulated in the said pamphlet at all. In these circumstances, when the aforesaid pamphlet was circulated at the time of auction on 30th April, 2004, if any further correction was liable to be made or any other stipulation was liable to be inserted, then in such a situation the aforesaid correction/stipulation would also have been circulated along with the pamphlets. Concededly no such action was taken by the respondents. In these circumstances, we are convinced that the respondents have adopted the stand of a printing error only when they have been faced with the claim of the petitioner-Company made in the present petition.

(18) We also take note of the fact that the respondents have maintained that as per HUDA policy, FAR 150% is allowed for multiplex site situated in the city centre and other multiplexes sites FAR 125% is only allowed. However, the petitioner-Company has specifically pleaded in the replication that even for a multiplex at Jind, advertisement had been issued indicating FAR of 150% and the auction of the said site was fixed for 19th May, 2004 and similarly for a multiplex at Faridabad, FAR of 150% was indicated in the Zoning Plan dated 26th March, 2002. According to the petitioner- Company, both the aforesaid multiplexes were also not located in city centres but were in commercial areas. In these circumstances, the stand taken by the respondents that for multiplexes situated in areas other than city centres, only FAR 125% is allowed, is also not found to be factually correct.

(19) We are also satisfied that the claim of the petitioner is also liable to be accepted on account of doctrine of promissory estoppel. The petitioner-Company has already acted upon a representation made by the respondents in the advertisement, Annexure P/1. Acting upon the aforesaid representation, it had participated in the bid on 30th April, 2004 and had deposited 25% of the consideration amount being Rs. 1.26 crore. The highest bid of Rs. 5.04 crore was offered by the petitioner-Company, primarily on the basis of the understanding that FAR of 150% was permitted for the site in question. The respondents, at this stage, cannot be permitted to back out from the aforesaid representation, made through advertisement Annexure P/1, more so, when in identical circumstances with regard to multiplexes at Jind and Faridabad, similar FAR of 150% had been allowed.

(20) The doctrine of promissory estoppel is well recognized by the courts in the country. The principle underlying the doctrine of promissory estoppel is that where one party has by his words or conduct, made to the other a clear and unequivocal promise, which is intended to create legal relations or effect a legal relationship to arise in the future knowing or intending that it be acted upon by the other party to whom the promise is made and it is in fact so acted upon by the other party, the promise would be binding on the party making it.

(21) The Supreme Court of India in the case of **The Union of India and others** *versus* **M/s. Anglo Afghan Agencies etc. (1)** has held that where a person has acted upon representations made by an authority, then it would be wholly inequitable to permit the aforesaid authority to back out from the aforesaid promise. It has been held by the Apex Court that even though the case may not fall within the terms of section 115 of the Evidence Act, it was still open to a party, who had acted on a representation made by the Government, to claim that the Government shall be bound to carry out the promise made by it, even though the promise was not recorded in the form of a formal contract.

(22) The doctrine of promissory estoppel was further recognised in the case of **M/s Motilal Padampat Sugar Mills Co. Ltd.** *versus* **The State of Uttar Pradesh and others (2).** The Supreme Court held that the doctrine of promissory estoppel has been variously called 'promissory estoppel', 'requisite estoppel' '*quasi* estoppel' and 'new estoppel'. It is a principle evolved by equity to avoid injustice and though commonly named 'promissory estoppel', it is neither in the realm of contract nor in the realm of estoppel. The true principle of promissory estoppel seems to be that where one party has by his words or conduct made to the other a clear and unequivocal promise, which is intended to create legal relations or effect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made and it is in fact so acted upon by the other party, the promise would be binding on the party making it and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings which have taken place between the parties, and this would be so,

(1) AIR 1968 S.C. 718
(2) AIR 1979 S.C. 621

irrespective of whether there is any pre-existing relationship between the parties or not. The doctrine or promissory estoppel need not be inhibited by the same limitation as estoppel in the strict sense of the term. It is an equitable principle evolved by the courts for doing justice and there is no reason why it should be given only a limited application by way of defence. There is no reason in logic or principle why promissory estoppel should also not be available as a cause of action, if necessary to satisfy the equity. It is not necessary, in order to attract the applicability of the doctrine of promissory estoppel, that the promisee, acting in reliance on the promise, should suffer any detriment. What is necessary is only that the promisee should have altered his position in reliance on the promise.

(23) Again in the case of **The Gujarat State Financial Corporation** *versus* **V. M/s. Lotus Hotels Pvt. Ltd. (3)** it was held by the Apex Court that if a Corporation entered into a solemn contract in discharge and performance of its statutory duty and some person acted upon it, the statutory Corporation cannot be allowed to act arbitrarily so as to cause harm and injury, flowing from its unreasonable conduct to the aforesaid person. It was held that in such a situation, the court is not powerless from holding the Corporation to its promise and it can be enforced by a writ of mandamus directing it to perform its statutory duty.

(24) The principles governing the doctrine of promissory estoppel was examined by a Division Bench of this Court in the case of **M/s Nestle India Limited and another** *versus* **State of Punjab (4)** as follows :

> "In law, the doctrine of promissory estoppel represents a principle of equity evolved by the Courts to prevent injustice. The correct principle underlying the doctrine of promissory estoppel is that where one party has by his words or conduct made to the other a clear and unequivocal promise which is intended to create legal relation or affect a legal relationship to arise in future, knowing or intending that it would be acted upon by the other party to whom the promise is made and it is, in fact, so acted upon by the other party, the promise would be binding on the party

(3) AIR 1983 S.C. 848
(4) (1998-3) P.L.R. 367

making it and he would not be entitled to go back upon it if it would be inequitable to allow him to do so having regard to the dealings which have taken place between the parties. The doctrine of promissory estoppel has also been applied against the Government and the argument based on executive necessity has been categorically negatived. Thus, where the Government makes a promise knowing or intending that it would be acted upon by the promisee, and in fact, the promisee relying on its alters its position, the government would be held bound by the promise and the promise would be enforceable against the Government at the instance of the promisee.

(25) In view of the law laid down by the Apex Court as well as by this court, as noticed above, we are satisfied that the principles of doctrine of promissory estoppel are fully attracted to the controversy in question. Once the petitioner-Company had acted on the representation of the respondents, as contained in the advertisement Annexure P/1 and had participated in the auction and had deposited a huge amount of Rs. 126 crore and had also incurred other expenses on the architects and building plans etc. It was not open to the respondents to back out from the said stipulation/representation at a later stage. The respondents are bound to permit an FAR of 150% to the petitioner-Company qua the site of multiplex at Ambala.

(26) As a result of the aforesaid discussion, we allow the present petition and direct the respondents to sanction the building plans of the petitioner-Company by permitting them an FAR of 150% qua the multiplex at the site which had been purchased by the petitioner-Company at Ambala on 30th April, 2004 and also isue them a revised re-allotment letter mentioning the aforesaid FAR of 150%. Necessary process in this regard shall be completed by the respondents within a period of two months from the date a certified copy of this order is received.

(27) A copy of the order be given dasti on payment of fee chargeable for urgent copies.

R.N.R.