

**Dev Raj Vs. Delhi Development Authority**

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**Court :** Delhi

**Decided On :** Feb-19-2014

**Judge :** Jayant Nath

**Appellant :** Dev Raj

**Respondent :** Delhi Development Authority

**Judgement :**

\$~ \* IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment Reserved on: February 13, 2014 Judgment Pronounced on: February 19, 2014 + LPA6252013 Appellant DEV RAJ Represented by: Mr.Sanjay Poddar, Senior Advocate instructed by Mr.R.K.Saini and Mr.Vikram Saini, Advocates versus DELHI DEVELOPMENT AUTHORITY ....Respondent Represented by: Ms.Shobhana Takiar, Advocate CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MR. JUSTICE JAYANT NATH JAYANT NATH, J.

1. The present Letters Patent Appeal is filed against order dated 11.07.2013 dismissing the writ petition of the appellant. The writ petition was filed seeking a writ of certiorari for quashing the action of respondent/DDA in cancelling the allotment of a flat to the petitioner and in declining to restore and make alternative allotment at old rate as per policy. Other connected reliefs were also sought.

2. The appellant states that on 29.12.1989 registered with DDA under its Special Housing Registration Scheme for SC/ST known as Ambedkar Awas Yojna for

allotment of an MIG flat. Registration fee of `12000 was deposited.

3. At the time of registration, in the Registration Form the appellant gave two addresses i.e. (a) current address A-4/548, Paschim Vihar, New Delhi as current address and (b) permanent address as Dalhousi Road Nehru Nagar House No,83, Pathankot 1450001.

4. In due course of time, the appellant shifted from Paschim Vihar house but forgot to inform DDA about the same.

5. The DDA included the name of the appellant in the draw held on 30.7.2003. The appellant was allotted Flat No.275(GF), Pocket 6, Sector 83 Rohini. An Allotment-cum-Demand Letter was issued to the petitioner and sent at the current address at Paschim vihar. As the appellant had shifted, the allotment letter was returned undelivered. It is averred that DDA took no steps to thereafter deliver the allotment letter to the appellant including by posting the same to the permanent address admittedly given by the appellant at the time of registration.

6. It is averred that in November 2012 the appellant came across a public notice issued by DDA regarding completion of allotment of flats in the Ambedkar Awas Yojna and that the scheme had been closed and those who have not been allotted should approach DDA for refund. The appellant approached DDA and made a representation on 4.12.2012 but to no effect. Hence, the present writ petition was filed.

7. The DDA in its counter affidavit has taken two objections. It is firstly contended that the writ petition is liable to be dismissed on ground of delay and laches. It is secondly stated that after the flat was allotted to the appellant, Allotment-cum-Demand Letter dated 25/30.9.2003 was issued and sent to the residential address of the appellant at Paschim Vihar. The same was returned with the postal remarks no such person in this address. It is further stated that the permanent address as given by the appellant in the application form was without any House No.or Street No.and appeared to be incomplete. Hence, DDA on 05.11.2003 sent another letter to the appellant at the residential address at Paschim Vihar with a copy to his work place i.e. Bharat Petroleum Corporation Ltd. Shakurbasti, Delhi. The letter

addressed to Paschim Vihar address again came back with the same comments. The letter sent to the occupational address was not received back undelivered.

8. The impugned order rejected the first objection of the respondent DDA about delay and laches inasmuch as the appellant did not receive the Demand-cum-Allotment Letter and could not have approached the court earlier.

9. Regarding the second objection of DDA, the learned Single Judge after perusal of the record of the respondent concluded that a false averment had been made in the Writ Petition that the appellant had mentioned in the Registration Form his permanent address as Dalhousie Road, Nehru Nagar, House No.83, Pathankot-1450001. However, from the original record of DDA it was apparent that the permanent address as mentioned by the appellant is Nehru Nagar, Dalhousie Road, Pathankot. No house number or street number has been mentioned. Hence, the impugned order concludes that the appellant has not approached this Court with clean hands and has tried to mislead the Court. The writ petition was accordingly dismissed.

10. Learned counsel for the appellant has urged that the alleged suppression of facts is a bona fide mistake and in any case is not a suppression or concealment of a material fact. He submits that his client should not be penalised for the same. He further submits that the appellant would be ready to pay the rate charged by DDA for similar flats on the date the appellant filed the present writ petition.

11. The learned counsel appearing for the respondent/DDA strenuously urges that the DDA had taken adequate steps to serve the appellant as the Demand-cum-Allotment Letter was sent not only at the current home address but also at the business address of the appellant. Hence, it is urged that the impugned order is valid.

12. The scheme of DDA which is the subject matter of the present petition is of 1989. The allotment was made on 25/30.9.2003 i.e. 14 years after launch of the scheme. Fourteen years is a long span in the life of an individual. The explanation of the appellant that he shifted his residence and did not remember to inform DDA about the new address is a plausible explanation. Further, given the long delay in

allotment of the flat and the subsequent time gap before filing of the writ petition we are also inclined to believe the explanation of the appellant that the omission to give the correct address in the writ petition as given in the application form is a bona fide mistake. The application to DDA was made in 1989. The present writ is filed in December 2012 i.e. 23 years later. Memory could certainly fade in this long time period.

13. The permanent address as given in the application form is a family house of the appellant. DDA was obliged to send the intimation letter at the said permanent address also. The local postal authorities are normally quite familiar with the occupants of different houses especially old residents and are known to deliver communications which are dispatched at incorrect or incomplete addresses based on the name of the addressee. It was obligatory on DDA to attempt to serve the appellant about allotment of the flat at the given permanent address as given in the application form especially as the letter to the current address came back unserved.

14. In this context we may refer to the judgment of a Division Bench of this court in LPA1372013 titled DDA vs. Banwari Lal Arya dated March 03, 2013, where this Court held as follows:

3. It is not in dispute that despite his permanent address having been disclosed by the respondent in the application form itself, no attempt was made by the appellant to send the demand letter at that address. No justification has been shown by the appellant for not sending the demand-cum-allotment-letter at the permanent address of the respondent. In our view, once the demand-cum-allotment-letter sent at the postal address of the respondent was received back unserved, it was obligatory for the appellant to send the said letter at the permanent address which had been disclosed in the application form. Cancellation of the allotment without making an attempt to send the allotment letter at the permanent address of respondent, disclosed in the application form, cannot be sustained and has rightly not found favour with the learned Single Judge.

15. In view of the above we set aside the impugned order of the learned Single Judge and allow the appeal. We direct the DDA to allot a similar flat in the same

area/zone at the rates as applicable on the date the appellant filed the writ petition.

16. No order as to costs. JAYANT NATH (JUDGE) PRADEEP NANDRAJOG  
(JUDGE) FEBRUARY19 2014 n

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