

Delhi Development Authority and Another Vs. Raghbir Singh and Another

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Court : Delhi

Decided On : Apr-28-1999

Reported in : 1999IVAD(Delhi)392; 79(1999)DLT328; 1999(50)DRJ121; ILR1999Delhi273

Judge : Arun Kumar and; Manmohan Sarin, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : LPA No. 32/1999

Appellant : Delhi Development Authority and Another

Respondent : Raghbir Singh and Another

Advocate for Def. : Mr. R.K. Saini, Adv.

Advocate for Pet/Ap. : Mr. Ravinder Sethi, Sr. Advocate and; Ms. Ragini Trakroo, Adv.

Judgement :

ORDER

Arun Kumar, J.

1. When this appeal came up for preliminary hearing, counsel for the respondent was present because the respondent had filed a caveat. Since a short point is

involved, we have heard the learned counsel for the parties for purposes of final disposal of this appeal.

2. The appellant Delhi Development Authority (hereinafter referred to as the Authority) is aggrieved of the direction contained in the impugned judgment of the learned Single Judge of this Court to the effect that plot No. 60, Block H-4/5, Pitam Pura, Delhi be allotted to the respondent who was the petitioner in the writ petition. Briefly the facts are that the lands belonging to the respondent situated in village Sameypur, Delhi had been acquired under the provisions of the Land Acquisition Act, 1894. The acquired land was placed at the disposal of the Authority as per provisions of Sections 21 and 22 of the Delhi Development Act, 1957. In lieu of the acquired land of the respondent he was entitled to an alternative residential plot under a scheme framed by the Government in this behalf. The Land and Building Department of the Delhi Administration recommended to the Authority for allotment of an alternative plot to the respondent in June 1986. The respondent was allotted plot No. 47, Block H-4/5, Pitam Pura, Delhi comprising an area of 198 sq. mtrs. in pursuance of a draw of lots held on 17th July, 1986. The respondent received information about this vide letter dated 4th September, 1986. By the said letter the respondent was also directed to deposit a sum of Rs.79,973/- after adjusting the amount already deposited by him. The respondent received a revised demand notice dated 16th December, 1988 for depositing a further sum of Rs. 4,434.60 p, in view of the area of the plot allotted to the respondent being worked out to be 208.53 sq. mtrs. instead of 198 sq.mtrs. The respondent however made representations for allotment of a plot for allotment to him, he could be put on a waiting list for the bigger plot and in that event he had to surrender the smaller size plot already allotted to him within a fortnight of the said letter. Without agreeing to surrender the plot already allotted to him, the respondent continued to make representations for allotment of a bigger plot of 400 sq. yards. Ultimately he filed a writ petition in this court seeking the same relief. The Authority contested the writ petition. The Authority does not dispute the existence of a policy for allotment of alternative plots. However, it has been stated that when the respondent expressed his desire for allotment of a larger plot of the size of 400 sq. yards, he was much junior in the seniority list of recommendees for that size of plot. Regarding the allegation of the respondent that bigger size plots were allotted

to some other persons, it has been stated on behalf of the Authority that those allotments are of a period prior to 1993. In the year 1993 the policy was modified. A decision was taken that the recommendees of East, North and West Delhi be given alternative plots only in Rohini and the recommendees of South and Pappankala be given alternative plots only at Dwarka. In view of the said policy decision, it was submitted on behalf of the Authority that no plot could be allotted to respondent in Pitam Pura after 1993. Further it has been stated on behalf of the Authority that allotment of plots is done strictly in accordance with the seniority list prepared by the Authority in this behalf. The seniority list is prepared on the basis of recommendations of the allotment of plots received from the Delhi Administration. Initial recommendation for allotment of a plot to the respondent was of the size of 250 sq. yards and a plot of that size was allotted to the respondent in Pitam Pura when his turn came for that purpose. Later the policy decision was taken that alternative plots which were being allotted under the scheme will be allotted only in Rohini and Dwarka areas. The respondent was not accepting the initial allotment of a plot to him in Pitam Pura. therefore, if he was keen to get a larger size plot, he could get it only as per the then prevailing policy which means that he could not get a plot allotted in the Pitam Pura area. Regarding the allegation of the respondent that some plots had been allotted in the Pitam Pura area also under the same scheme, the Authority had categorically stated that no such allotment has taken place after the year 1993. The allotments being referred by the respondent are of the period prior to that.

3. By an interim order passed in the writ petition filed by the respondent the Authority was directed to keep plot No. 60, Block H-4/5, Pitam Pura admeasuring 400 sq. yards reserved. By the final decision the learned Single Judge allowed the writ petition and directed the said plot No.60, Block H-4/5, Pitam Pura admeasuring 400 sq. yards to be allotted to the respondent subject to the respondent paying the difference in the price. The Authority is aggrieved by the said direction firstly, on the ground that the respondent could not be allotted a plot in Pitam Pura area in view of the change in the policy. Secondly, it is submitted that the learned Single Judge was wrong in assuming that the acquired land of the respondent was situated in Pitam Pura area which led to the direction being given for allotment of a plot to the respondent in Pitam Pura area itself.

4. In the first instance it has to be noted that allotment of an alternative plot in view of acquisition of land belonging to the person who seeks allotment is not a matter of right. This has been laid down by a Full Bench of this Court in Ramanand Vs . Union of India : 1993(26)DRJ594 . The respondent is getting the allotment of alternative plot under a scheme framed by the Government, therefore, the allotment has to be as per the scheme and the respondent cannot be allowed to travel outside the scheme or take any advantage outside the scheme or prevailing policy. The respondent was allotted a plot of the size of 208.53 sq.mtrs. in Pitam Pura in the year 1986. He was not satisfied and he sought allotment of a larger plot. If the respondent is to get a larger plot under the scheme, he has to get it strictly as per the scheme. The Authority is maintaining seniority lists on the basis of recommendations received by it for allotment of alternative plots from the Delhi Administration. It is the Delhi Administration which makes the recommendations for allotment after verifying the eligibility conditions for allotment. For purposes of allotment of a larger plot, the respondent had to join a queue afresh in the category of the list of persons seeking allotment of 400 sq. yards size plot. In the meanwhile, a further policy decision was taken by the Authority that future allotment of alternative plots would be only in the Rohini and Dwarka areas, therefore, no allotment of plots could be made in Pitam Pura area thereafter. In these circumstances, the direction contained in the impugned judgment of the learned Single Judge for allotment of a 400 sq. yards plot to the respondent in the Pitam Pura area appears to be clearly contrary to the then prevailing policy. As a result of the impugned direction, the respondent not only gets an out of turn allotment of alternative plot in Pitam Pura area, he also gets a 400 sq. yards plot out of turn. Thus he gets a double advantage. The policies adopted by the Authority in this connection from time to time have received approval of this Court. Before the stage for allotment of a 400 sq. yards plot in favor of the respondent could be reached, the allotment of alternative plots in the Pitam Pura area had been already closed. The direction contained in the impugned judgment in this behalf is thus clearly contrary to the policy decision taken by the Authority. We have already noticed that allotment of alternative plots in lieu of acquisition of land is not under any statutory right nor it is based on any other vested right of the erstwhile land owner. This is only a grace or advantage provided under a scheme

framed by the Government for the benefit of such persons whose lands stood acquired. In the facts of the present case, we are of the view that the direction contained in the impugned judgment for allotment of plot No. 60, Block H-4/5, Pitam Pura, Delhi cannot be sustained. The same is accordingly set aside. If the respondent insists on allotment of a larger size plot, i.e., a plot of an area of 400 sq. yards, he will be considered for the same as per the present policy of the Authority and the rules governing the same, after surrendering the plot already allotted to him in the year 1986.

5. This appeal is thus allowed leaving the parties to bear their respective costs.

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