

Meera Devi and anr. Vs. Delhi Development Authority

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SooperKanoon Citation : sooperkanoon.com/689432

Court : Delhi

Decided On : Dec-01-1993

Reported in : 53(1994)DLT62

Judge : Sat Pal, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 27, Rule 5B

Appeal No. : Interim Application No. 11813 of 1992 and Suit No. 2223 of 1985

Appellant : Meera Devi and anr.

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : P.P. Malhotra,; Rajan Khanna and; K.S. Jaggi, Advs

Judgement :

Sat Pal, J.

(1) This is an application filed on behalf of the plaintiff under Order 27 Rules 5-B and 6 read with Section 151 of the Code of Civil Procedure and in this application it has been prayed that the Secretary of the Delhi Development Authority (for short called DDA), who is the defendant in this case, be directed to appear in person and depose about the service of the notice on 14th March, 1985 as alleged in the written statement filed on behalf of the DDA. It has further been prayed that endeavor be made for settlement of the matter amicably and the possession of the

said plot bearing No. BM-52 (Paschimi) Shalimar Bagh Residential Scheme Delhi be given to the plaintiffs.

(2) Briefly stated, the facts of the case are that the plaintiffs were the highest bidder for the purchase of plot bearing No. BM-52 (Paschimi) Shalimar Bagh Residential Scheme, Delhi in the public auction held by the Dda on 15th October, 1984. The bid price was Rs. 8.1.4 lakhs. The case of the plaintiffs is that the plaintiffs deposited th of the bid amount on 15th October, 1984 and the defendant was to confirm the bid within 30 days and thereafter the plaintiffs were to make the payment for the balance amount within 60 days. It is further alleged by the plaintiffs that the Dda did not confirm the said bid within 30 days from the date of auction, nor any demand was received by the plaintiffs.

(3) The case of the defendant, however, is that the notice of demand was served upon the plaintiffs on 14th March, 1985 and the bid was also confirmed.

(4) Notice of this application was issued to the Dda on 22nd September, 1992 for 19th January, 1993. Thereafter, on 27th April, 1993 the Secretary of the Dda was directed to be present in the Court Along with the relevant record. On 26th August the Secretary of the Dda was present in the Court and gave the statement that the Officer in charge of the concerned Department was Commissioner (L&D;), DDA. Accordingly, I directed R.S. Roy, Commissioner (L&D;), Dda to be present in the Court on the next date of hearing and the case was adjourned to 19th August,1993.

(5) On 26th August, 1993 the statement of both Mr. S. Roy, Commissioner (L&D;) and Mr. Ranbir Singh, the then Secretary of the Dda were recorded. Mr. Ranbir Singh in his statement stated that in March, 1989 a representation was made to the Lt. Governor by the plaintiffs through Mr. Deep Chand Bandhu and the file containing the detailed note was put up to him and in this note the dealing assistant had pointed out that office copy of the demand letter placed at page 13 was missing.

(6) Mr. S. Roy in his statement stated that he had taken over as Commissioner (L&D;) on 7th March, 1993. He, however, submitted that as per the records, on

2nd March, 1989 it came to the notice of the Dda that office copy of the demand letter containing acknowledgement of the plaintiffs was missing from the file. He further stated that from the file it appeared that no action was taken by the Dda to enquire into the matter as to how the document had been removed from the file and it was only on 18th August, 1993 when Mr. Ranbir Singh, Secretary of Dda brought to his notice that he had to appear before the Court, he looked into the matter and thereafter a memo was issued one Mr. O.P.Jatwani, who was dealing assistant in the year 1986 and to Mr. Ram Singar, who was dealing assistant in the year 1989. He further stated that now the department would enquire into the matter thoroughly and if necessary, action would be taken against the officers.

(7) By my order dated 26th August, 1993 I had directed that the statement of plaintiff No. 2 Smt. Uma Rani, should also be recorded. Since the plaintiff was not present on that date, she was directed to be present on the next date of hearing i.e. 6th September, 1993. On 6th September, 1993, statement of Smt. Uma Rani, plaintiff No. 2 was recorded. In her statement she stated that at the time of auction they had enough funds to purchase this plot and after they had given the bid. She and her mother-in-law were having sufficient funds all along. She further stated that even on 29th April, 1985 she and her mother-in-law had got sufficient funds to make the balance payment to the DDA. She also confirmed that notice dated 23rd July, 1985 (Ex.PB) was issued by her Counsel Mr. Jawahar Chawla, Advocate under her instructions. She also confirmed that she Along with her mother-in-law had written letter dated 29th April, 1985 (Ex. PA) to the DDA. In Ex. Pa it has been stated that because of medical health and financial reasons, the plaintiffs were no longer interested to take the said plot of land because the Dda had consumed greater time in handing over the plot after the acceptance of the said bid had been conveyed to them. From the letter it appears the in April 1985 the plaintiffs were not having sufficient funds to purchase the plot but in the statement plaintiff No. 2 has stated that they were having sufficient funds all along. Keeping in view the said contradiction, I dismiss this application and direct that the said suit be tried in the regular manner. The parties are, however, left to bear their own costs.

(8) Before concluding I am constrained to observe that it is a clear case of gross dereliction of duty on the part of some officers of the DDA. The Commissioner in his statement has clearly stated that from the records he found that it was for the first time on 2nd March, 1989, it came to the notice of the department that office copy of the demand letter containing acknowledgement was missing from the file. It was further stated by him that on 2nd March, 1989 the note containing said fact was put up by the dealing assistant before the Superintendent, Land Sales Branch (Residential) and note was also seen by the then Deputy Director Mr. R.P. Gupta, the note was then seen by Mr. Ranbir Singh the then Additional Commissioner (who was the Secretary on the date when his statement was recorded). The said note was also seen by Mr. P.K. Tripathi the then Commissioner Land on 9th March, 1989 and was sent to the Vice-Chairman Mr. K.S. Bains on 10th March, 1989. However, the disturbing feature of the case is that no action was taken against any officer for the loss of the said material document till 18th August, 1993 when the Commissioner (L&D;) was informed by the Secretary that he had to appear before the Court on 19th August, 1993 pursuant to a direction by this Court. Since the Commissioner (L&D;) in his statement recorded on 26th August, 1993 has now stated that the matter will be enquired into thoroughly, I would expect the Vice-Chairman of Dda to identify the officers concerned and to take appropriate action. A copy of this order should be sent by the Registry to the Vice-Chairman, Dda as well as to the Lt. Governor.