

Rakesh Kumar Vs. Delhi Development Authority

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Court : Delhi

Decided On : May-02-2001

Reported in : 2001VAD(Delhi)926; 92(2001)DLT171; 2001(59)DRJ182

Judge : Manmohan Sarin, J.

Appeal No. : CW. No. 7242/99

Appellant : Rakesh Kumar

Respondent : Delhi Development Authority

Advocate for Def. : Mr. V.K. Sharma, Adv.

Advocate for Pet/Ap. : Mr. Ashok K. Mahajan, Adv

Judgement :

ORDER

Manmohan Sarin, J. (Oral)

Rule.

1. With the consent of the parties writ petition is taken up for disposal, as only a short point is involved.

2. Petitioner seeks a writ of mandamus to respondents to charge the cost of flat as prevalent in 1994 and refund the balance. Further a direction is sought not to

include the premium in the cost of land.

3. The petitioner had applied for a DDA flat under the Ambedkar Avas Yojana by depositing Rs.12,000/-. The petitioner was allotted priority No.112. It is the petitioner's case that he was employed with the Ministry of External Affairs and was transferred to Tanzania. Petitioner vide his letter dated 7.2.1994, informed the respondents about his transfer and requested that communications be addressed to the petitioner at the Tanzania address. Petitioner claims to have addressed a communication dated 7.2.1994, notifying the respondents of his posting at Tanzania and the change of address.

4. Respondents in the counter affidavit claimed that no such letter was available in their record. In any case this aspect need not detain us any further as a subsequent letter to the same effect was again addressed by the petitioner to the respondent. This letter was admittedly received on 2.12.1994, vide receipt No.6064. The petitioner was declared successful in the allotment of a MIG flat No.24, Block-D, Third floor, Sector 15, Pocket IV, Rohini, Delhi, in the draw held on 27.12.1994. Respondent sent the intimation to the petitioner at his old address given in the application. Naturally, the petitioner could not respond to the same. Respondents in the event cancelled the allotment for want of payment. Rather it automatically stood cancelled in the absence of payment.

5. Representations from the petitioner were considered and respondents after detailed examination of the case and the decision taken in a public hearing allotted to the petitioner a flat bearing No.31, Third Floor, Sector 15, Pocket D-4, Rohini. The petitioner it appears has paid for the same and taken possession. The cost for this has however been charged on current basis. Respondents contend that as the petitioner did not protest or challenge the demand and made the payment willingly, the petitioner cannot raise any grievance in that regard now.

6. I am unable to accept this contention. Respondents are a public body and are required to act uniformly, fairly and in accordance with law. It is not disputed before me that in cases, where an applicant is not made an allotment on account of default in dispatch of a demand letter or any other default on the part of DDA, the petitioner is charged as per their practice the rates applicable to him for a flat,

which would have been originally allotted to him, but for the lapse.

7. The respondent in these circumstances, cannot burden the petitioner with current cost for similar flat for no fault of his. A mandamus is directed to be issued to the respondent to charge the petitioner the price of a similar flat as prevalent for flats allotted on 1.11.1984. Petitioner confines his relief to the above and also does not press the claim for interest on the differential amount to be refunded.

Writ petition stands allowed in the above terms.

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