

Siianti Swaroop Singhal Vs. Delhi Development Authority and anr.

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SooperKanoon Citation : sooperkanoon.com/694120

Court : Delhi

Decided On : Jan-22-1990

Reported in : 40(1990)DLT337

Judge : B.N. Kirpal and; C.L. Chaudhry, JJ.

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

Appeal No. : Civil Writ Petition No. 1674 of 1989

Appellant : Siianti Swaroop Singhal

Respondent : Delhi Development Authority and anr.

Advocate for Pet/Ap. : H.N. Salve,; Nisha Bagchi and; Parag Chawla, Advs

Judgement :

B.N. Kirpal, J.

(1) Rule D.B.

(2) The challenge in this writ petition to the cancellation of allotment of Shop/Stall No. S-39 in Phase I, Rewari Line, Delhi.

(3) The case of the petitioner is that in 1963 the Delhi Administration had acquired 7 Big has and 8 his was of land belonging to Shri L.C, Singhal, the father of the petitioner. Shri L.C. Singhal expired in 1976 and the petitioner is stated to be the

only heir in view of a Will which had been executed by his father in his favor. Under the scheme of the large scale acquisition, development and disposal of land in Delhi alternative property was to be allotted with a view to rehabilitate the erstwhile owners. The petitioner had made an application for such alternative allotment and deposited the earnest money of Rs. 2000.00 . In the draw of lots held on 24th June. 1988 the petitioner was allotted a Shop/Stall bearing No. S-39 in phase I, Rewari Line, Delhi and the petitioner was directed to pay Rs. 1,13,695. The petitioner was also required to handover the original certificate. The requisite payment was made and the certificate which was available with the petitioner was also submitted. Suddenly the impugned order was passed on 2nd December, 1988 cancelling the allotment on the ground that the original Lac certificate in the name of the petitioner had not been furnished. It is this which has been challenged in the present writ petition.

(4) It is not disputed that land of the petitioner's father was acquired. If the petitioner's father had been alive, he would have been entitled to alternative allotment. The right which was acquired by the petitioner's father was as valuable right which came into existence at the time of the acquisition of the land of the petitioner's father. This right vested in the petitioner by reason of the execution of the Will and it is difficult to understand how the D.D.A. expects a certificate from the Land Acquisition Collector-regarding acquisition of land and which certificate should be in the name of the petitioner. As far as the Land Acquisition Collector is concerned, he can issue a certificate only in respect of a person who was the owner of the land at the time of the acquisition, that was the petitioner's father. The petitioner having acquired that right by way of a Will the respondents are obliged to allot alternative property which they did. In order to put the matters beyond any doubt, counsel for the petitioner has placed on record affidavits of the other heirs of Shri L.C. Singhal in which they have stated that they, namely, Minoo Devi and Gopal Krishan, accept the Will executed- by Shri L.C. Singhal in favor of the petitioner.

(6) No such affidavit has been filed obviously for the reason that the contention of the petitioner is unassailable.

(7) Learned counsel for the petitioner informs that though the money which had been paid by the petitioner to the respondents has been sought to be returned by issuing a cheque in favor of the petitioner, the petitioner has not in fact encased the same.

(8) We accordingly allow this writ petition and quash the cancellation order No. F. 20 (31) 88 Impl. dated 2.12.2988.

(9) the cheque for Rs. 1,33,695.00 which had been sent by the respondents to the petitioner has been handed back to the counsel for the respondents in Court today. This being so, the sale consideration as demanded by the respondents is still with them, and the petitioner has not got the same back. As such, we issue a writ of Mandamus directing the respondents to hand over possession of the Shop/Stall bearing No. S-39 in phase I, Rewari Line, Delhi to the petitioner within four weeks from today.

(10) There will be no orders as to costs.