

Chhatar Singh Vs. Delhi Development Authority and ors.

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Court : Delhi

Decided On : Jan-23-1990

Reported in : 41(1990)DLT329

Judge : Malik Sharief-ud-Din and; M.K. Chawla, JJ.

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

Appeal No. : Civil Writ Appeal No. 2635 of 1989

Appellant : Chhatar Singh

Respondent : Delhi Development Authority and ors.

Advocate for Pet/Ap. : Ramesh Chandra,; Anand Yadav and; N.K. Jaggi, Advs

Judgement :

Malik Sharief Ud-Din, J.

(1) We have heard the learned counsel for the parties on all material points. Rule D.B.

(2) Since the matter is short and the pleadings are complete, we proceed to judgment.

(3) The grievance of the petitioner is that his land in the North Zone of Delhi was acquired and pursuant to a scheme he was to be allotted a shop site in the north

zone but instead in the year 1983 he was allotted shop No. 30, Pocket C-5, Yamunapuri, Delhi in East Zone. However, till 1986 no demand letter was issued nor was any demand made nor the possession of the aforesaid shop was delivered to him. In the meanwhile, the petitioner who was aggrieved of having been allotted a shop site in East Zone instead of North Zone, requested for a change, which was allowed by the respondent and shop No. 11, Vaishali, Pitampura, North Zone near to his house was allotted to him. Pursuant to this allotment the petitioner deposited the entire amount demanded in respect of this shop and on 27th February, 1987 the possession of the shop was delivered to him, pursuant to which he sought electric connection from the Delhi Electric Supply Undertaking and was also assessed to municipal taxes.

(4) Suddenly to his utter dismay, the petitioner received a letter dated 1st September, 1989 dispatched on 9th September, 1989 by the respondents cancelling the allotment of the shop No. 11, Vaishali, Pitampura, North Zone. This was done without any show cause notice to the petitioner. In fact the letter is to the effect that he shall hand over the possession to the respondent and is Annexure J, to this petition.

(5) The case of the respondent as it transpires from the counter affidavit is that the change was not approved by the competent authority though it is admitted that the change was approved by the Commissioner of Lands. It would be seen that this letter was in fact issued from the office of the respondent by one Shri Som Prakash, Deputy Director (C) and was issued pursuant to the directions given by the Commissioner of Lands. The case of the respondent however, is that Shri Som Prakash Deputy Director (C) has issued this letter of his own without the authority of the competent authority and for this reason he has been placed under suspension and an enquiry is going on against him. Surprisingly, at no place has the respondent spelt out as to who is the Competent Authority but the petitioner has provided us assistance in his rejoinder as per Annexure K. In this annexure it is shown that the Commissioner of Lands is the Competent Authority. Obviously, the change has been approved by the Commissioner of Lands, who is the Competent Authority and the changed allotment is in order. The letter dated 18th September, 1986 (Annexure-C) has been issued at the instance of the Competent

Authority, while the letter dated 1st September 1989 (Annexure-J) does not seem to have been issued at the instance of the competent authority as there is no reference to the Commissioner of Lands in the letter nor does it indicate the reason for cancellation of allotment. Even, on bare reading of the letter it appears to us that the officer issuing it has simply filled up the form. In our view, therefore, the allotment is in order and impugned letter for cancellation of the allotment has been issued without any reason and authority of the law.

(6) We, therefore, allow this petition, set aside the cancellation of the allotment of shop No 11, Vaishali, Pitampura, Delhi in favor of the petitioner as communicated to the petitioner vide letter dated 1st September 1989 and direct the respondent to execute the lease deed in respect of the said shop No. 11, C.S.C. Vaishali, Pitampura, Delhi in favor of the petitioner. There will be no order as to costs.

(7) Mr. Jaggi submits that in para 1 of the rejoinder the petitioner made certain derogatory observations which the court may expunge. Mr. Ramesh Chandra has no objection. We direct that para I of the rejoinder be not treated as part of the rejoinder.