

Smt. Sona Devi Vs. Dda and ors.

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Court : Delhi

Decided On : May-03-2001

Reported in : 2001(60)DRJ244

Judge : Mr. Manmohan Sarin, J.

Acts : [General Clauses Act, 1897](#)

Appeal No. : Civil Writ Petition No. 2101 of 1994

Appellant : Smt. Sona Devi

Respondent : Dda and ors.

Advocate for Def. : Dr. I.P. Singh, Adv.

Advocate for Pet/Ap. : Mr. J.N. Aggarwal, Adv

Judgement :

ORDER

Manmohan Sarin, J.

1. With the consent of the parties, the writ petition is taken up for disposal.
2. Petitioner has filed the present writ petition seeking quashing of the order No.F-11(781)/87/LSB(R)/2813 dated 8th April, 1994, issued by respondent No.2. Petitioner also seeks a writ of mandamus, directing the respondents to allot

alternate developed residential plot No. 25, Block 'H', Pocket 3, Sector 18, Rohini, in view of acquisition of her land under the scheme of large scale acquisition, development and disposal of land.

3. The admitted facts are that petitioner was the owner of about 2 acres of agricultural land in Village Bhorgarh in the revenue state of Narela. The said land was acquired by the respondents vide award No. 19/78-79. Petitioner applied for allotment of a plot in lieu of the land which was acquired under the Scheme, known as Large Scale Acquisition, Development and Disposal of land in Delhi. Under this scheme, individuals whose land were acquired were entitled to allotment of a residential plot of land on predetermined rates. It is not in dispute that petitioner was eligible for allotment of an alternate, plot and, in fact, she applied for the same and was allotted a plot measuring 200 sq.mtrs. vide letter dated 18.1.1993. As per the said letter, petitioner was required to pay 35% of the premium, amounting to Rs.85,533/-, at the provisional rate of Rs.1650.65p. per sq. meter. The case of the petitioner is that she never received the said letter and, as such, could not comply with it. Respondents, subsequently, issued the impugned letter, cancelling the allotment in favor of the petitioner on account of failure on the part of the petitioner to make the payment within the stipulated time.

4. Learned counsel for the petitioner, Mr. J.N.Aggarwal, urged before me that petitioner never received the allotment letter and, therefore, could not comply with the same. It is submitted that petitioner was possessed of the funds and could have easily paid the amount demanded. In fact, it is stated that petitioner, after the filing of the writ petition, had deposited a sum of Rs.4,12,000/- with the respondent Delhi Development Authority vide challan dated 16.12.1999.

5. It may be noted that notice to show cause was issued in the writ petition on 16th of May, 1994 by the Division Bench and operation of the impugned letter dated 8.4.1994 was stayed. Learned counsel for the respondents, very fairly, states that since the operation of the cancellation letter was stayed, the plot has not been allotted to anyone else and continues to be available.

6. Learned counsel for the respondents urged that the letter of allotment was duly sent to the petitioner but they did not receive any response from her. Records of

the case were called and pursued. Respondents had produced before me the Transit Register; the Receipt and dispatch register and the allotment file. The procedure adopted, as per the respondents, was that the letter was sent from the Land and Sales Branch to the Receipt & dispatch section, for which signature were obtained. The Receipt and dispatch section assigned their diary number to the letter and sent it to the dispatch section on 22.1.1993. From the dispatch section it was actually posted on 23rd of January, 1993. I have seen the record where entries exist with regard to the internal movement and dispatch of the letter. There is a presumption as of its service under the General Clauses Act. Normally, this would have raised a disputed question of facts, in as much as, while the petitioner claims in her sworn affidavit that she never received the letter, the respondents are submitting that as per their record, the letter was dispatched and there is a presumption as to its service once it is properly addressed.

7. However, one of the factors which tilts the balance in favor of the petitioner is that normally the letters of allotment, being important and valuable documents affecting the rights of the allottees, are sent by the respondent as a matter of procedure and practice, by registered post. In this case, a departure appears to have been made when the letter is stated to have been sent by ordinary post. It has not been sent even under the Certificate of posting. On enquiry being made as to the reason for the said departure, it is stated that at the relevant time there was a lot of pressure of work, with increased number of letters being sought to be dispatched and in that confusion this letter was sent to the Receipt and dispatch section, to be dispatched by ordinary post.

8. Learned counsel for the petitioner attempted to urge before me that the entry in the dispatch register being at the bottom of the page and in a different colour of ink, was indicative of a subsequent attempt at covering up a lapse. In my view, it is not necessary to delve further into this aspect as it has emerged that the letter was sent contrary to the established procedure and practice by ordinary post, instead of by registered post. It is also accepted that at the relevant time there was pressure of work and large number of letters were required to be sent, as a result of which the letter of allotment addressed to the petitioner was sent to the Receipt and dispatch section to be sent by ordinary post.

9. In the facts as narrated above, I am of the view that petitioner's contention, on a sworn affidavit, that she did not receive the letter of allotment, deserved to be accepted. Moreover, the object of the scheme for allotment of a plot in lieu of the land acquired, has to be kept in mind. The scheme was intended to provide relief to those who had been uprooted from their lands and petitioner was one of those whose land had been acquired. I, accordingly, allow the writ petition and quash the impugned letter issued by respondent No.2 bearing No. F-11(781)/87/LDB(R)2813 dated 8th April, 1994.

10. The plot allotted to the petitioner, bearing No.25, Block 'H', Pocket 3, Sector 18, Rohini, continues to be available. Let possession of the plot be handed over to the petitioner on payment of the price at old rates with interest @ 18% from 18.2.1993, i.e. after allowing 30 days time normally granted for payment, till payment, and subject to the petitioner completing all necessary formalities. Petitioner shall receive credit for the sum of Rs.4,12,000/- already deposited by him.

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