

**Vijay Kumar Ganeja and ors. Vs. Delhi Development Authority and ors.**

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**Court :** Delhi

**Decided On :** Aug-21-1990

**Reported in :** 42(1990)DLT428; 1990RLR436

**Judge :** B.N. Kirpal and; Santosh Duggal, JJ.

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

**Appeal No. :** Criminal Writ Appeal No. 3243 of 1989

**Appellant :** Vijay Kumar Ganeja and ors.

**Respondent :** Delhi Development Authority and ors.

**Advocate for Pet/Ap. :** Mukul Rohatagi,; O.P. Gaggar,; Jayant Bhushan and;

**Judgement :**

**B.N. Kirpal, J.**

(1) Rule D.B.

(2) The question involved is very short one and brooks no delay and that is why we are disposing it off immediately.

(3) In August, 1987 the respondents published an advertisement intimating that it was holding auction for the sale of some plots in an area which is known as Geeta Colony. According to the terms of the auction 25%, of the bid amount was to be

paid as earnest money and 75% of the amount was to be payable on confirmation of the bid by the Vice Chairman.

(4) It is not in dispute that all the ten petitioners successfully bid at the auction held on 29th October, 1987 and paid their earnest money. On 4th November, 1987 their bids were confirmed by the Vice Chairman and the petitioners were required to make payment of 75% within 30 days. By 2nd and 4th December, 1987, except petitioner No. 2, all other petitioners paid the requisite amount, Petitioner No. 2 paid the 75% after 4th December, 1987 along with interest thereon. On 31st March, 1988 notice of assessment by the Municipal Corporation was also issued fixing a rateable value of the plot.

(5) The petitioners thereafter requested the respondents for the delivery of possession. Representations were sent on 18th February, 1988, 13th June, 1988 and 22nd June, 1988. After the petitioners received no reply, they met the Vice-Chairman on 6th October, 1988 and thereafter again sent a number of representations till February, 1989. After meeting the Prime Minister on 15th March, 1989 things started moving. On 17th April, 1989 the respondents informed the petitioners that possession of the site would be handed over on 26th April, 1989.

(6) It is a case of the petitioners that on 26th April, 1989 possession was handed over to them under police protection. They further state that the D.D.A. got the encroachments removed and thereafter the petitioners also started digging the foundation and constructed shallow before the well.

(7) It is alleged that between 1st and 3rd May, 1989 the local miscreants demolished the wall and a report was lodged with the police, but to no effect. The petitioner No. 1 then received a letter dated 9th/11th August, 1989 asking him to bring certain affidavits and documents so that the lease deed could be executed. Similar letters were also received by other petitioners.

(8) On 23rd August, 1989 a board is alleged to have been placed at the site declaring the said site to be a public park. This board was placed in the name of Shri P.N. Sharma, Deputy Director, Horticulture. It is further alleged that Shri P.N.

Sharma informed the petitioner on telephone that he had been instructed to develop the said land into a public park and he had also applied to the Mcd for water connection for this purpose. Thereafter the present petition has been filed.

(9) The aforesaid averments of facts have not been denied by the respondents except that it has been stated that respondents persuaded the petitioners to hand back the possession to the respondents and that thereafter the site is to be developed as a park. It is further stated by the respondents that they will be allotting alternative plots of land to the petitioners.

(10) After show cause notice was issued to the respondents time was taken by them to find acceptable alternative plots of land. The plots which were offered to the petitioners in block Nos. 5 and 8 of Geeta Colony were not acceptable to them. The respondents have not given any concrete report in writing to the petitioners offering any other plots of land similarly situate to the one which has been allotted to the petitioners.

(11) Prayer in the present writ petition is that the respondents should be directed to execute a proper lease deed and it should not declare the said site to be a public park and protection should be given to the petitioners against any criminal trespass or criminal intimidation by any anti-socio elements.

(12) From the facts enumerated hereinabove it is clear without any shadow of doubt that the petitioners have complied with the requirements, namely, they took part in the auction, their bid were accepted and bid money has been paid. A period of nearly three years have elapsed and till today the petitioners are not in a position to construct their dwelling houses on the plots in question. In the reply affidavit it is contended that it is the local inhabitants along with the political leader who prevented the construction of houses at site and it is they who insisted that this site should be developed into a park.

(13) It is unfortunate that the Governmental authorities are unable to see that the law and order is maintained and that persons, whether local inhabitants or other people, are not allowed to take the law in their own hands. It is not in dispute that according to the Zonal Development Plan the site in question is earmarked as

residential area. Plots have been developed by the D.D.A., they have been auctioned by them and persons like the petitioner have paid good money for the said plots. The respondents are now estopped from going back and cannot now be permitted to contend that because of the local political and other influence the rights of the petitioners should be given a go-by and that respondents will try and accommodate the petitioners elsewhere. Apart from being deprived of the money the petitioners, their bids having been accepted, were also precluded from purchasing any other property in Delhi because the law in Delhi is that if you own any property in Delhi, then you cannot purchase any other property from the D.D.A. or other governmental authorities. The petitioners have not only been deprived of their land for the last three years, but would also have suffered consequences of having to spend more money in constructing the houses. As far as the D.D.A. is concerned we cannot accept that there are any equities in their favor, as were being contended by Shri Bhushan. It was the duty of the D.D.A. to see whether it was in a position to hand over the vacant possession of the plots to the purchasers or not. If the D.D.A. failed to carry out its statutory obligation then arms of the Court are longer enough to direct the D.D.A. to do its duty. What the petitioners are demanding is their right in accordance with law. The action of the respondents in seeking to give alternative plots of land to the petitioners is wholly arbitrary and contrary to law. The site in question being residential in nature, as per Zonal Development Plan, was converted into a park by the D.D.A.

(14) For the aforesaid reasons this writ petition is allowed. Writ of mandamus is issued to the respondents-D.D.A. to execute a proper lease deed in favor of the petitioners on the petitioners' complying with all the formalities within a period of four weeks from today. Respondents are further directed to hand over physical possession of the plots in question to the petitioners within ten days from today after removing all encroachments on the said plots. Respondent No. 3, namely, Commissioner of Police, is directed to render police assistance in order to see that vacant physical possession is handed over to the petitioners and that the possession of the petitioners is not disturbed. The ground rent will commence only with effect from the date when the vacant possession is handed over by the D.D.A. to the petitioners. The writ of mandamus is issued quashing any policy which the respondents may have for inverting the plots in question into a public park.

(15) The petitioners are entitled to costs. Costs to be payable by respondent No. 1.  
Counsel fees Rs. 1000.00 .

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