Devender Kumar and anr. Vs. Delhi Development Authority and anr.

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SooperKanoon Citation : sooperkanoon.com/698386

Court : Delhi

Decided On : Feb-17-1994

Reported in : 1994IAD(Delhi)781; 54(1994)DLT68; 1994(28)DRJ503; (1994)107PLR5; 1994RLR202

Judge : P.N. Nag and; R.L. Gupta, JJ.

Appeal No. : Civil Writ Petition No. 1779 of 1992

Appellant : Devender Kumar and anr.

Respondent : Delhi Development Authority and anr.

Advocate for Pet/Ap. : R.K. Saini, Adv

Judgement :

P.N. Nag, J.

(1) By this writ petition, the petitioners have challenged the revised demand letters dated 13.2.1992, 14.2.1992 and 17.2.1992, Annexures P-l, P-2 and P-3 issued by respondent No.2 to the petitioners.

(2) Facts in substance set out in the petition are that in pursuance to the advertisement issued by respondent No.2 for allotment of certain shops to the Scheduled Castes/ Scheduled Tribes, petitioners being Scheduled Castes applied for the allotment of such .he shops/stalls to them. In pursuance of Draw of Lots

held by respondent No. 1, petitioners were allotted shops. Thereafter vide allotment-cum -demand letters dated 18.11.1988, the respondent No. 1 called upon them to deposit 25 percent of the reserve price of the shop/ stall allotted to them within 60 days. As per terms of the Scheme, the balance premium of 75 percent was to be paid in 24 equal monthly Installments carrying interest at the rate of 6% per annum, after the possession of the shops had been handed over to them. Petitioners, accordingly deposited the amount demanded in the allotment-cum-demand letters within time and thereafter respondent No. 1 handed over the possession of the shops to the petitioners immediately towards the end of December,1991. Thereafter the petitioners commenced their business in such shops. However, after a period of one year and three months of giving possession the respondent No.2 has issued revised demand notices dated 13.2.1992,14.2.1992and 17.2.1992, which are Annexures P-l, P-2 and P-3 in respect of the shops allotted to the petitioners whereby the price of the shops, as originally fixed, has been revised and which are subject matter of the challenge in the writ petition. According to the petitioners, it was represented to them that shops would be allotted to them at a fixed reserve price, 25 percent of which was indicated in the allotment-cum-demand letters dated 18.11.1988, collectively referred to as Annexure P-5 and that was paid and now the respondent cannot be permitted to raise the reserve price by raising this further demand under the doctrine of promissory estoppel and the principles of natural justice. Such an increase in demand of reserve price of the shops is also stated to be illegal and arbitrary.

(3) The stand taken by the respondent in the reply is that the revised demand letters issued on 13.2.92, 14.2.92 and 17.2.92 are regarding recovery of balance of 25% of the reserve price of shop No.21, Lsc at Paschim Puri Block A-1, Shop No. 104, Hog Market at Rajender Place and shop No. 19 at Saraswati Vihar Block-C respect p73 collectively and monthly Installment of these shops. 25% of the Reserve price is charged as initial deposit and balance 75% is charged in 24 equal monthly Installments. There is no dispute that 75% balance has to be charged in 24 equal monthly Installments. The price raised by the impugned demand is for the balance of 25% reserve price.

(4) We have heard learned counsel for the petitioner. Nobody appears for the respondents although we have waited for the counsel up to 3.00 p.m.

(5) In order to determine this controversy between the parties, it is necessary to examine the relevant terms and conditions set out in the advertisement, Annexure P-4, which is reproduced as under:-

'THE possession of Shops/Stalls/Kiosks allotted to members of SC/ST would be handed over to them on payment of 25% of the Reserve Price and the balance amount would be payable in 24 equated monthly Installments together with the interest @ 6% per annum.'

It may be noticed that in pursuance of this advertisement, the petitioners being Scheduled Castes applied for allotment of the shops and in terms thereof they were allotted shops and 25% of the reserve price was charged from them vide letters of allotment collectively referred to as Annexure P-5. In these demand letters 25% of the reserve price of the shops has been shown and calculated and on that basis the money has been realised from the petitioners. It may be further noticed that the 25% reserve price of the shops was not shown as tentative or provisional but 25 % of the reserve price of the shop was specifically mentioned therein. We fail to understand on what basis the respondents now have raised revised demand of the balance of the reserve price which does not find place either in the advertisement or in the letter of allotment initially issued. In fact the revised demand is without any basis, arbitrary and illegal and has to be set aside.

(6) Viewed from another angle, the respondents are estopped from charging the amount raised by them in the revised demand on the principle of promissory estoppel. Petitioners have applied for allotment of the shops under Scheduled Castes quota in response to advertisement and in terms of the advertisement they were required to deposit 25% of the reserve price as indicated in the allotment letter. On the representation of the respondents that the petitioners were required to pay 25% of reserve price as mentioned in the demand letters (Collectively referred to as Annexure P-5), the petitioners acting on such representation deposited the requisite amount and after taking possession of shops from respondent-DDA have also started business. Had the petitioners known at that

time of deposit of the 25% of the Reserve price, as they were required to pay originally, that revised demand of balance of 25% of reserve price would be raised by the Dda, they would have perhaps not purchased such shops. The Dda, thereforee, in these facts and circumstances is estopped from raising further demand of balance of 25% of the reserve price vide their impugned letters under the doctrine of promissory estoppel. We are fortified in taking such a view by the following observations of Supreme Court of India in the case of M/s Motilal Padamapat Sugar Mills Co. Ltd. V. The State of Uttar Pradesh and others, : [1979]118ITR326(SC) :- 'The true principle of promissory estoppel, thereforee, seems to be that where one party has by his words or conduct made to the other a clear and unequivocal promise which is intended to create legal relations or affect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made and it is in fact so acted upon by the other party to whom the promise is made, the promise would be binding on the party making it and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so having regard to the dealings which have taken place between the parties, and this would be so irrespective whether there is any preexisting relationship between the parties or not.'

(7) In the light of what is discussed above, the impugned demand letters dated 13.2.92, 14.2.92 and 17.2.92, annexed as Annexures P-l, P-2 and P-3arcsctaside. Respondents will also be liable to pay costs of the petition which are quantified at Rs. 1000.00 to each of the petitioners.