

Trilok Chand Tyagi Vs. Delhi Development Authority

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Court : Delhi

Decided On : Aug-13-1997

Reported in : 1997VIAD(Delhi)109; 68(1997)DLT544; 1997(42)DRJ732

Judge : Devinder Gupta and; K. Ramamoorthy, JJ.

Appeal No. : Letters Patent Appeal No. 09 of 1984

Appellant : Trilok Chand Tyagi

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : R.P. Bansal,; Praveen Suri and; Apurab Lal, Advs

Judgement :

Devinder Gupta, J.

(1) The Appellant is aggrieved by dismissal of his Cw No. 2277 of 1983 by the learned Single Judge on 16.11.1984. The Appellant had challenged the order of rejection of his two applications for allotment of an alternative plot under the Scheme of 'Large Scale Acquisition, Development and Disposal of Land in Delhi'.

(2) The facts as noticed in the impugned order are that on acquisition of the Appellant's property, an application was made by him under the Scheme on or about 09.08.1979, which was dealt with by the Delhi Administration in the Land and Building Department. The said Department through its letter dated 07.09.1979 called upon the Land Acquisition Collector to verify the particulars of the land acquired and to furnish the required information to enable the Land and Building Department to take further action. Through letter dated 15.04.1982, the Collector, Land Acquisition called for a copy of the original application of the Appellant so that the particulars contained therein could be verified. Before any decision was taken on this application the Appellant in the meanwhile had on or about 22.05.1982 filed another application. Column 12 of the second application was answered in negative by the Appellant by which he was required to furnish information that whether any application for allotment of alternative plot was submitted earlier in respect of the specified land. By the time first application came up for consideration the second application also came to be scrutinised in the Land and Building Department along with the supporting affidavit filed therewith. At that stage it transpired that the Appellant earlier had also applied which application was being dealt with in file No.F.30(3)8/79/L&B;/ALT. Noticing that two applications had been filed and in the second application column 12 had been answered in negative a proposal was mooted for taking action against the Appellant to prosecute him.

(3) On 19.07.1982, a notice was issued to the Appellant who in his reply filed on 06.08.1982 rendered his Explanationn. After considering the reply to the show cause notice, instead of prosecuting the appellant, it was decided by the respondents to reject the two applications of the Appellant for allotment of alternative plot. The decision was communicated through letter dated 23.08.1982. The Appellant filed a representation, which was also rejected and the rejection was communicated through letter dated 05.11.1982. Both the

decisions were challenged by the appellant in writ petition on numerous grounds. The learned Single Judge dismissed the writ petition through the impugned orders. We have heard learned counsel for the parties.

(4) Though we are satisfied with the reasoning of the learned Single Judge that no interference was called for with the impugned decision of rejection of the Appellant's second application due to his having made an incorrect statement that he had not made any application earlier for allotment of an alternative plot of land but making and this wrong statement could not have resulted in rejection of the first application filed by the Appellant for allotment of an alternative plot of land. It was not a case where the appellants first application was finally decided before he made the second application. His first application was still under process. No decision had been taken thereon. It had remained pending for almost three years. Before the application could be scrutinised and final decision taken thereon, the second application was filed and thus both were dealt with together. It was not a case where an allotment made on the first application. For this reason alone the impugned order of learned Single Judge in dismissing the writ petition is liable to be set aside. The learned Single Judge based upon the stand taken by Respondent in its counter affidavit took his view of possible allotment, which view is erroneous in as much as no allotment had been made on the first application. Needless to add that in reply to the Show Cause Notice the Appellant had made a request to the respondents to at least take a decision on his first since no allotment had been made in his favour. There was no reason as to why the respondents ought not to have taken any decision on the first application. Consequently the impugned decision of the respondent in rejecting the Appellant's first application is liable to be set aside. Ordered accordingly.

(5) K. Ramamoorthy, J, (Oral) With great respect, I agree with the orders passed by my learned brother. In my view what the learned single judge had observed requires a little consideration. The learned Single Judge said:

(6) If an applicant makes two or more applications and they are not linked by the Land Acquisition Collector or by the Land and Building Department, then the possibility cannot be ruled out that a person may be allotted more than one plot. The stand of the Delhi Administration is that the petitioner would have definitely obtained two plots in lieu of his land acquired by the Government if the department had not connected the two applications. The view taken by the Delhi Administration is a possible view.

(7) In my view, the observation made by the learned Single Judge is not correct and the view taken by the respondent is not the possible view. therefore, the judgment of the learned Single Judge cannot be sustained and accordingly the Lpa is liable to be allowed.

(8) Order of the Court: Consequently the appeal is allowed. The respondents are directed to take a decision on the Appellant's first application for allotment of alternative plot within a period of three months from the date of receipt of writ order from this court. In case it is proposed to make recommendation for an alternative allotment in favor of the Appellant, the same will be duly forwarded to Dda within a period of one month thereafter. On receipt of such recommendation, the Dda will proceed to make allotment, in accordance with the policy and guidelines in vague within a period of three months. dusty to parties.

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