

Mohd. Suleman Vs. Delhi Development Authority

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Court : Delhi

Decided On : Aug-22-1997

Reported in : 1997VAD(Delhi)588; 68(1997)DLT351; 1997(42)DRJ655

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

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

Appeal No. : Civil Writ Appeal No. 165 of 1991 and Civil Miscellaneous Appeal No. 8121 of 1995

Appellant : Mohd. Suleman

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : H.A. Ahmadi and; Rajesh Kumar, Advs

Judgement :

Devinder Gupta, J.

(1) Petitioner on 14.1.1991 filed Writ Petition No. 165/91 seeking allotment and delivery of plot/shop situated in Fruit and Vegetable Market, Okhla by way of an alternate allotment in lieu of an area near Jama Masjid, from where he had been operating from which place he was evicted in the year 1976 under the Scheme of Clearance of Shopkeepers carrying on business in the Jama Masjid Area, Delhi. The said writ petition was disposed of on settlement arrived at amongst parties in

the following terms :

'COUNSEL for the parties are agreed that the claim of the petitioner will be satisfied with the allotment of a vegetable stall in favor of the petitioner in Block-A at Anand Vihar, Delhi. Ordered accordingly.

THE petition and the applications are disposed of in the aforesaid terms.'

WHEN no allotment was made in petitioner's favor despite the above agreement and despite the petitioner having approached the respondents through representations, the petitioner sought further direction by filing a misc. application (CM 260/95) praying therein that respondents be directed to forthwith allot a vegetable stall in Block A, Anand Vihar and also to pay compensation of Rs. 2,000.00 p.m. for a period of three years prior to the passing of the order dated 7.1.1992 and for subsequent period till possession of the stall is delivered to him. The said application was dismissed on 26.7.1995 as not maintainable. Petitioner did not agitate the matter further. In the meanwhile on 26.10.1995 respondents sent a demand notice to the petitioner in connection with allotment of Shop No. 12, Csc, A-Block, Anand Vihar calling upon the petitioner to pay the following amounts :

(i) Total premium of Shop : Rs. 1,11,000.00 (i) Documentation charges : Rs. 45.00
(iii) Other dues G/rent P.A. Rs. 1,110.00 M. Charges p.a. Rs. 1,110.00 Total amount payable Rs. 1,13,265.00

(2) After receipt of the above demand letter, the petitioner on 14.12.1995 filed this misc. application seeking direction against the respondents to allot the said shop to him at a reserve price of Rs. 57,100.00 instead of the amount, as demanded alleging that the reserve price of the shop as on 7-1-1992 was Rs. 57,100.00 on which date rights of parties were fructified. The application was taken up on 2.1.1996 when the petitioner volunteered to deposit provisionally a sum of Rs. 47,000.00 with D.D.A. and respondent-DDA was asked to maintain status quo as regards shop in question. Parties have thereafter exchanged their affidavits. The petitioner had deposited a sum of Rs. 57,100.00 , but possession was not being delivered to him. Petitioner insisted for direction to deliver possession to him and

accordingly on 7.1.1997 the petitioner was called upon to make a further deposit so that the total amount deposited by him would come to Rs. 80,000.00 thereby keeping the question open as to what further amount the petitioner would be required to deposit.

(3) The point to be considered is as to whether the petitioner is liable to pay the amount as per the demand made through demand letter dated 26.10.1995, namely, the date of allotment or as per the rates, which were prevalent on the date when the writ petition was disposed of.

(4) Contention of the learned Counsel for the petitioner has been that the rights of the parties were fructified on the day when writ petition was decided, on which date the respondents agreed to make allotment in petitioner's favour. The delay which occurred thereafter was due to the laxity on the part of the respondent in not making actual allotment within a reasonable time for which petitioner cannot be made to suffer. As on the day when the writ petition was decided the reserve price of similar shops was Rs. 57,100.00 but the petitioner is now being asked to pay a sum of Rs. 1,13,265.00 .

(5) Having considered the submission made on behalf of the petitioner, we do not find any force therein that the rights of the parties as regards the date of allotment were fructified as on the day when writ petition was disposed of. The Court while disposing of the writ petition simply took note of the statement of learned Counsel for the parties, which obviously included the respondent's agreement that the claim of the petitioner will be satisfied with allotment of vegetable stall in Block 'A' at Anand Vihar. Neither the petitioner insisted upon, nor the Court fixed any time-limit within which the respondent was to make the allotment. The respondent also did not make any firm commitment as regards the date of allotment. The writ petition was disposed of in terms of the statement of Counsel for the parties. At the most such a statement made on behalf of the respondent has to be taken as the respondent having taken a decision to agree to the petitioner's request for allotment. But it can't be taken as actual allotment, which was yet to come, for which no time-limit was fixed.

(6) It appears that the petitioner also did not take the matter seriously. He approached the Court again only in 1995 but his application was dismissed as not maintainable. Thereafter the petitioner did not agitate the matter further. Respondent obviously took its own time in making allotment and sent the demand only on 26.10.1995.

(7) The question as regards the relevant date of the price was considered by a Full Bench of this Court in its decision reported as Ramanand v. Union of India, : 1993(26)DRJ594 . With reference to the allotment of alternate plot of land to an individual pursuant to acquisition of land under the Scheme of the Government it was held that an individual has no absolute right to allotment of an alternate plot but may be considered for allotment. The price to be paid would be the one as prevalent on the date the allotment and not with reference to any other earlier date. Allotment under the said Scheme is also made by D.D.A. on recommendation of Government. Neither date of recommendation, nor the date of application is the deciding factor.

(8) What can be said in the instant case also in the light of the decision in Rama Nand's case (supra) that the respondent on 7.1.1992 merely agreed to make allotment in petitioner's favour. It was neither agreed, nor was it decided that at what rate the petitioner will have to pay for the allotment. It is not disputed that actual allotment was made in October, 1995 on which date the premium of the shop was Rs. 1,11,000.00 , which amount was demanded from the petitioner Along with other misc. charges, which the petitioner is bound to pay.

(9) Consequently the application is disposed of with direction to the petitioner to make the balance payment, as per the demand Along with interest thereupon and on belated payments at the rate of 18% p.a. from the date of demand till payment. On payment of the amount Along with interest and such other amounts as may be required to be paid and on complying with other formalities within a period of one month from the date of receipt of order from this Court, the respondent within a period of two months thereafter, will execute necessary documents in petitioner's favour. Failure on the part of the petitioner to make the payment of the balance amount Along with interest will result in automatic cancellation of the allotment,

which in turn will enable the respondents to dispossess the petitioner in accordance with law.

(10) Application disposed of.

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