

Anandi Devi Vs. Delhi Development Authority

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Court : Delhi

Decided On : Sep-19-1997

Reported in : 1998IAD(Delhi)131; 69(1997)DLT725; 1997(43)DRJ660

Judge : Vijender Jain, J.

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

Appeal No. : Civil Writ Petition Nos. 1385 and 1387 of 1997

Appellant : Anandi Devi

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : V.P. Singh,; Anil Amrit,; Ravinder Sethi,;

Judgement :

Vijender Jain, J.

(1) This order will dispose of Civil Writ Petition Nos. 1385/1997 and 1387/1997.

(2) These writ petitions are for seeking an appropriate writ or direction to the respondents for issue of an allotment letter in respect of alternative plot of the same market value ad measuring 400 sq. yds. and 300 sq. yds. respectively at Siri Fort Road/Factory Road as per the policy of the respondents. These cases have got chequered history. In 1952 petitioner's husband, Shri Bhola Dutt and Shri V.D.

Sharma, husband of petitioner in Cw 1387/1997, purchased from Sunlight of India Insurance Company Limited free-hold developed plots bearing No. 46 and Plot No. 18, Sunlight Estate, ad measuring 400 sq. yds. and 300 sq. yds vide registered Sale Deed dated 20.11.1952 and 15.5.1953 respectively. According to the petitioners, plots had been in possession of the petitioners' husband and the petitioners. The petitioner's husband, Shri Bhola Dutt, an army officer, and Shri V.D. Sharma, an ex Director of I.L.O expired on 7.11.1991 and 20.6.1996 respectively.

(3) Chief Commissioner of Delhi issued two notifications dated 8.3.1957 and 21.3.1957 acquiring the entire land belonging to the Sunlight of India Insurance Company Limited. On suit being filed by some plot holders, Sub-Judge, First Class, Delhi declared the aforesaid notifications as illegal, invalid and ineffective on 29.4.1960. The appeal filed by the respondent-UOI was also dismissed by Senior Sub-Judge and the second appeal filed by respondent-UOI was also dismissed by Punjab High Court (Circuit Bench at Delhi).

(4) The Special Leave Petition filed by the respondent-UOI was also dismissed by the Supreme Court on 8.11.1968. It is the case of the petitioners that the husbands of the petitioners did not take any compensation after the acquisition proceedings. No notification for acquisition of the land was thereafter issued in relation to the lands of the petitioners, and the possession, according to the petitioners, remained with the husbands of the petitioners and the petitioners. There is a letter in the original files, which were directed to be produced in Court, dated 5.4.1966 wherein the letter of one of petitioners' husband, Shri Bhola Dutt, has been replied by the Deputy Housing Commissioner, Delhi Administration, Delhi. It is the case of the petitioners that the respondent Nos. 1 and 2 entered into negotiations with the individual plot holders and were allotted alternative plots of some size or bigger size at Siri Fort Road, Masjid Moth Road and Factory Road as the lands of the plot holders of Sunlight Estate Along with other land were sold by respondent Nos. 2 and 3 to respondent No. 1-DDA which developed on the said land 'Bhikaji Cama Place'. These two plots of petitioners bearing Nos. 46 and 18, therefore, never belonged to respondent-UOI, Uoi did not have any authority to sell the same to respondent-DDA. In all there were 42 plots. The case of the

petitioners is that but for the present two petitioners, all the 40 persons had been allotted alternative plots. According to the petitioners, the husbands of the petitioners could not pursue the matter vigorously at that period when the plots were allotted to other person as they were posted outside Delhi. Various representations were made by the petitioners' husbands, which have been annexed with the petitions. After the death of her husbands, the petitioners visited Delhi and found out that two of the other plot holders, who were not allotted alternative plots got, the plots after filing a petition in this Court, one of them being Civil Writ Petition No. 1347/1988 titled as M.L. Sikka & Anr. v. Uoi & Ors.

(5) It is the case of the petitioners that the petitioners submitted application for construction of commercial building at plot No. 46 and plot No. 18 as the entire area in the Zonal Plan had already been declared as commercial. However, no such permission was granted to the petitioners. In the meanwhile, respondent-UOI had sold the whole area of Sunlight Insurance Company together with other land to the Delhi Development Authority (for short 'DDA') where the Dda developed Bhikaji Cama Place. The petitioners made further representation to respondent No. 2 and approached the Commissioner (Land), Dda who after going through the file informed the petitioners that Dda had nothing to do with the case of the petitioners as Dda had taken over the land from respondent No. 2, i.e. Uoi, after making payment of full cost for plan developed of Bhikaji Cama Place. The representation of the petitioners to the respondent-UOI met the same fate as respondent No. 2 in response to the representation of the petitioners, inter alia, asked the petitioners to seek redressal of their grievance by approaching the DDA. As a matter of fact, the petitioners were made to suffer by approaching one Department to other Department. The petitioners also wrote to the respondent No. 1 for allotment of alternative plots as has been done in other cases. The petitioners' averments are that they were treated differently with other persons namely, Mr. Roop Malhotra and Mr. Uppal, who had constructed the building in the area what was formerly known as Sunlight Estate and now Bhikaji Cama Place and they were discussing with the respondents for a possible settlement regarding the sanction of the building plans or in the alternative for allotment of alternative plots and petitioners were not treated with same options for allotment of alternative plots. The petitioners sent various reminders to the respondents for allotment of

alternative plots. On 15.11.1995, Commissioner, of respondent No. 1, addressed a communication to the petitioners, which was as follows:

Delhi development Authority Vikas Sadan, IN a F.1(71)/95/RSB(R)/11523
15.11.1995 S. Roy, Commissioner (LD) The Land and Development Officer,
Ministry of Ua & E, New Delhi Sub: Allotment of alternative plot to Smt. Anandi
Devi, Wd/o late Shri Bhola Dutt and Shri V.D. Sharma owners of Plot No. 46 & 18
in Sunlight Enclave Sir, Smt. Anandi Devi, Wd/o late Shri Bhola Dutt and Shri V.D.
Sharma has requested this office for allotment of alternative allotment in lieu of
their acquired land in Village Mohd. Pur which was placed at the disposal of Dda
by L & Do on 28.10.1975. Since the Dda has already deposited the cost of the
land with the L & Do, the request of Smt. Anandi Devi is forwarded for allotment of
alternative plot as has been done by the L & Do in other similar cases. Yours
faithfully, (S. Roy) Commissioner (LD)

(6) As a matter of fact, this communication shows that Dda washed its hands off
by writing to the L & Do, Uoi that as they had already deposited the cost of the
land with the L & Do, the request of the petitioners for allotment of alternative plots
should be taken up by Uoi as has been done by the L & Do in similar cases.

(7) There is another communication from the respondent-DDA dated 21.11.1995
to the petitioners informing the petitioners, inter alia, that Dda has purchased 35
acres of land for Bhikaji Cama Shopping Centre from L & Do Department in 1975
and, therefore, for allotment of alternative plots in lieu of their earlier plots, they
may approach the L & Do Department with a specific averment that the
respondent No. 1 has never allotted any alternative plot to the plot holders of
Sunlight Estate Colony.

(8) Learned Counsel for the petitioners, Mr. V.P. Singh, has contended that
'Annexure-G' to petition is a list containing the names of persons, who have been
allotted plots and all of them were owning plots in Sunlight Estate. Mr. Singh has
further contended that the Government had taken a decision to allot alternative
plots to all similarly situated persons. But no alternative plot pursuant to that policy
has been allotted to petitioners.

(9) The Court directed the original files of the allotment to be produced in Court. In the original files, it was stated by the Minister concerned in reply to Parliament Question that a proposal to offer equivalent size residential alternative plots to the plot holders in exchange of their residential plots acquired were offered. There was a categorical assurance by the Minister concerned that the alternative plots have been offered to the holders of plots for Sunlight Estate colony. At page-5 of the File No. III/8/12(65)/94, there is a note of Minister of State dated 17.4.1996, which is as follows:

'Perused the file and notes on pre-page. The note of the Director (L) and L & Do does not examine the Fr at all. It only discusses the case of Shri Kochar which is totally different from this case. L & Do at least should have read his own letter No. Do No. L-III, 8/12 (64)/92/21, dated 18th January, 1996 at flag `C' to Secretary (L & B), Noted wherein he says that the case of Shri Kochar is not similar to other cases which now he finds similar. The fact has been admitted also in the affidavit dated 20th February, 1996 in the Supreme Court of India filed by Deputy L & Do at Flag `X'. The fact is that all but these two applicants have been given alternative plots. Shri Kochar and three others who had already built their houses were not give alternative plots. It is clear from the notes of US(L) at page-33/notes that the Far and ground coverage available on account of these plots have been achieved/utilized by the Dda and these parties now cannot build on their own land even if they want to. Dda has in fact turned down their building plans. (FR) If that is so, it is unfortunate that they are made to run from the Ministry to Dda and back to Ministry for justice. I would like to know whether at any point of time any reply was given to Parliament Question by the Ministry admitting that all but 3 were offered alternative plots. And whether subsequently any other person was given alternative plot by the Ministry. If above facts are true, then the Ministry should offer alternative plots which are available at Siri Fort Road/Factory Road as mentioned by E.O.L & Do in his note at page I/Notes to both the remaining plot holders without passing on the buck to the DDA. The terms and conditions can be the same as it was in the case of Shri S.L. Sikka and Shri M.L. Sikka as decided by the High Court of Delhi. Orders may be complied with and necessary letters issued within a week. Minister Of State For Urban Affairs & EMPLOYMENT'

(10) Curiously on 14.5.1996 there is a note by Deputy Land & Development Officer to the following effect:

'.....THAT2 petitioners before us in the present case namely Smt. Anandi Devi and Shri V.D. Sharma contend that like Shri M.L. Sikka their plots of land in Sunlight Colony were also transferred Along with other land to the Dda in 1975 and that the Dda has rejected their building plans on the ground that it has already paid the full cost of the land to the Ministry. Their contention that their plots of land were also transferred to Dda is in conflict with their assertion in their representations that they are in actual and continuous possession of their plots. Even if we taken the position that their plots formed part of land transferred to Dda, department according to the advice of Ala attached to this office, is not bound to allot them alternative plots of land. The petitioners' real difficulty is that as Far and ground coverage available on account of their plots have already been utilised by the Dda in the process of development of Bhikaji Cama Place, the Dda is not sanctioning their building plans. Keeping this point and the points made in the preceding para in view it is for consideration and orders whether the petitioners may be allotted alternative plots of land. The case is submitted with reference to the Minutes of MOS(UAE) on page 43/N. (T.C. Hingorani) Dy. Land & Development Officer 14.5.1996'

(11) But whole process was reversed when the & Do on 20.5.1996 recorded that in view of the latest decision of the Supreme Court, no relief was warranted from the L & DO. The discussion on the file, which is perused by me, shows that right of the petitioners was being defeated by the respondent Nos. 2 and 3 on the ground of the case of Jaswant Rai Kochar. The order so passed in that case dated 11.3.1996 is on record. The Supreme Court declined to interfere in the said matter because Jaswant Rai Kochar had constructed the plot and had been living therein and, therefore, he was held not to be entitled to the alternative site because the Supreme Court was of the opinion that if the house of Jaswant Rai Kochar was to be acquired action would be taken in accordance with Law. There is a note of Mr. B.R. Dhiman dated 19.8.1996, Which is as follow :

'.....12. In the given situation similar position prevailed in the case of two plots earlier owned by Sikka who had agitated the matter before the Delhi High Court and Hon'ble Court had directed that Hon'ble Minister of Urban Development being in charge of both L & Do and Dda should be in a position to settle the matter and report the compliance to the Court. Thus to settle this matter we had made available two plots in Factory Road area, the cost of which was recovered from the Dda at the prevailing market rates after giving the benefit of Rs. 25.00 per sq. yard as recovered from them in the process of allotment of land for District Centre, Bhikaji Cama Place. 13. In the above background and also the fact that though in 3 cases acquisition proceedings for vacant land have been quashed and in another 3 cases acquisition proceedings though valid yet reconstruction permission is not possible, a judicious view is required to be taken in consultation with Dda directing the latter to make available six plots of equal size in a comparable locality or alternatively an effort made both by Dda and L & Do to identify six plots of comparable size and locality, cost of which should be met by the DDA. 14. At one point of time we had suggested to Dda & L & Do could make available two or three plots for settling the matter once for all provided cost thereof was paid by the authority but this was not acceptable to Dda as it was contended that they will deal with the situation legally and if required they will make available the alternative plots to the affected parties in Pappan Kalan or elsewhere which situation was not acceptable to the parties.'

(12) In view of the above discussions on the file, when respondent Nos. 2 and 3 were recording notes for exploring the possibility of availability of two or three plots for settling the matter even after the matter was concluded by the note of Minister dated 17.4.1996, still justice was not meted out to the petitioners and they were driven from post to pillar for their legitimate grievance. In the counter affidavit filed by the respondent-UOI, it has been stated that the possession of the land belonging to the petitioners was handed/taken over by the L & DO/DDA and plots formed part of the Bhikaji Cama Place, which has been duly developed and Far and ground coverage of the petitioners' plots have been utilised during the process of construction of the complex by the DDA.

(13) In para 17 of said counter affidavit, it has also been admitted by respondent Nos. 2 and 3 that the negotiations were held with individual plot holders and out of Court settlement was reached with them in pursuance of which they were offered alternative plots of land in lieu of their plots in erstwhile Sunlight Estate.

(14) In para 35, Uoi has tried to pass the buck to Dda, the stand of the respondent-UOI was that the instructions were issued to the Dda to allot alternative plots to the affected parties wherever required.

(15) It has been contended by Mr. Sarabjit Sharma, Counsel appearing for respondent Nos. 2 and 3 that the instructions were issued vide Ministry's letter dated 19.7.1976 that if any more person(s) were found eligible for allotment of alternative plots on the lines of the plot being allotted to Smt. Jamuna Devi, who was another plot holder in 'Sunlight Estate', it will be for the Dda to provide them equivalent number of residential plots. In the counter affidavit, which has been filed by the respondent Nos. 2 and 3, the only defense taken by the respondent Uoi is that it is the respondent No. 1, which has to provide plots in question. Dda, respondent No. 1, has also filed a detailed counter affidavit dated 12.8.1997 in which Dda has tried to reply those averments of the petitioners, which pertains to respondent Nos. 2 and 3. Obviously, at the time of arguments Realizing the mistake, respondent No. 1-DDA filed another additional affidavit clarifying the stand in para 3, which is as under: 3. In the counter affidavit certain paragraphs which were to be replied by respondent Nos. 2 and 3 have been replied by the Delhi Development Authority in the counter affidavit filed by Delhi Development Authority.....

(16) It is further stated in the affidavit that in case of all the allottees, allotment of alternative plots have been made by respondent Nos. 2 and 3 alone out of plots available with them. Dda has nothing to do with the allotment of alternative plot to the plot holders of erstwhile Sunlight Estate and this fact is also clear from the Commissioner's letter dated 15.11.1995, which is 'Annexure-Y' to the petition. In view of additional affidavit filed by Dda, Mr. V.P. Singh stated that the main grievance of the petitioners is against respondent Nos. 2 and 3 as there is no privity of contract between respondent No. 1 and the petitioners.

(17) Mr. Ravinder Sethi, learned Counsel appearing for respondent No. 1-DDA, very fairly stated that if the petitioners are not seeking any relief against the respondent-DDA, then he would not like to argue the matter any further as it is between the respondent Nos. 2 and 3 and the petitioners to sort out the matter.

(18) In support of his contentions, Mr. Singh has cited a Division Bench decision of this Court in Cw 1347/1988 relating to same 'Sunlight Estate' (now known as 'Bhikaji Cama Place') which was also in relation to two plots of land bearing Nos. 29 and 30. The present petitions are in relation to plot bearing Nos. 46 and 18. The Division Bench of this Court had taken the view in the said judgment that acquisition being quashed and upheld by the Supreme Court, these plots never belonged to Uoi, therefore, Uoi had no authority to sell the same to DDA. The question to be answered in these petitions are whether respondent Nos. 2 and 3 are justified in treating the petitioners in a discriminatory manner, more so, in view of fact that out of 42 plot holders of Sunlight Estate, majority of plot holders have been allotted alternative plots by respondent Nos. 2 and 3 themselves.

(19) Whether after taking a policy decision to allot alternative plots to plot holders of Sunlight Estate, Uoi can turn round and say that plots be allotted by DDA.

(20) The answer is in negative. In a State like ours governed by rule of law, there cannot be two rules for the same class of citizen. Here are two widows whose husbands served in Army and international organisation, they have to fight for their rights and made to run from one department of Government to another for no fault of theirs. At the highest level their matter was examined by the Minister, still of no help. No one can fathom the unfathomable action of the Government servants in the files. These unfortunate petitioners have lost their respective husbands and did not get justice for decades. Why they did not get alternative plots, the answer is simple. These plots were sold by Uoi, which had no authority to sell the same. Dda has developed it as a prime commercial complex. Dda had paid the price of land to UOI. None, neither Dda nor Uoi, wants to give alternative plots to the petitioners because land has become dearer. Dda may be right in saying that it was under no obligation to spend more money as the cost of land has been paid to UOI. But the stand of Uoi that direction has been issued to Dda to allot the alternative plots to

petitioners is not sufficient in the absence of allotment of alternative plots.

(21) Uoi has admitted in its counter affidavit that petitioners were entitled to allotment of alternative plots, therefore, it is the obligation of Uoi to allot alternative plots to the petitioners. I decide accordingly. Uoi is directed to allot the alternative plots to the petitioners in the same locality where other plot holders of Sunlight Estate has been allotted plots on the basis of same guidelines and principles which were applicable in the matter of allotment to other allottees.

(22) There are two writ petitions and during the course of hearing, it was brought to the notice of this Court that one plot belonging to the Uoi is available, i.e. Plot No. 13, Siri Fort Road, New Delhi which was lying vacant and for which interim orders were passed.

(23) Following the ratio of the decision of the Division Bench in Cw No. 1347/1988, the said plot can be allotted to one of the petitioners taking into consideration their entitlement with regard to size of the plot, with regard to other plot, which is to be allotted to the other petitioner, the same direction is issued to the respondent-UOI to allot another alternative plot to the other petitioner on the basis of parameters and guidelines laid down in the said judgments. The Court in that case held:

'ASDDA and Union of India are both Government authorities, the question as to at what figure the prices are to be determined for the purpose of accounting should be decided by the Minister concerned. As far as the citizens are concerned, namely, the petitioners, they are going out of their way and are more accommodative than the respondents in accepting the alternative plots of land. If they were not to accept the alternate plots, the whole project of Dda at Bhikaji Cama Place would be adversely affected. In fact, by not insisting on their pound of flesh, the petitioners are trying to accommodate the Dda and we see no justification for the Dda in not trying to accommodate the petitioners.'

It is further held that:

'THEsolution, as we have already indicated, is very simple and according to us Dda, despite what they believe, should be answerable to some one, and that is the

Minister. therefore, what amount is to be paid to Union of India will be decided by the Minister of Urban Development, Union of India.'

Following the decision of the Division Bench of this Court in Cw 1347/1988 passed on 6th January, 1992, I also direct the respondent-UOI to sort out the question with the Dda and that should not be the reason for not allotting alternative plots in favor of the petitioners. The alternative plots be allotted to the petitioners within a period of eight weeks from today. Another plot of land be also made available to the other petitioner of the same market value and of same size as per her entitlement in the same locality. In view of the above directions, these writ petitions are allowed. Rule is made absolute. There will be no order as to costs.

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