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Court : Delhi

Decided On : Jul-01-2008

Reported in : 152(2008)CLT5; 2008(104)DRJ584

Judge : Kailash Gambhir, J.

Appeal No. : WP (C) No. 4207/2007

Appellant : Satish Chandra Singh

Respondent : Delhi Development Authority

Advocate for Def. : M.K. Singh, Adv.

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

Judgement :

Kailash Gambhir, J.

1. The present petition filed by the petitioner seeks to challenge the action of the respondent DDA cancelling the allotment of the petitioner made in the draw held on 27th March, 1991. The petitioner also sought writ of mandamus so as to direct the respondent DDA to allot an alternative plot in the developed sector of Phase I, II or III, Rohini at old rates along with interest @ 7% as per the policy of the DDA.

2. Brief facts stated by the petitioner for claiming the said reliefs are that the petitioner was registered with the DDA under the Rohini Residential Scheme, 1981 for allotment of an MIG plot and necessary registration amount was deposited by the petitioner. The petitioner is a veterinary surgeon and his job was transferable, due to which he was posted at different places at different times. Due to such frequent change of his address, the petitioner at the time of seeking registration under the said scheme had given the address of his brother i.e. C/o Shri G.C. Singh, I-78, Ashok Vihar Phase I, Delhi - 110052. The petitioner had also given address of one concern where his father was employed i.e. Chief Chemist, Sawan Sugar Mills, District Siwan, Bihar. It is further stated that somewhere in 1983 brother of the petitioner Mr. G.C. Singh got allotment and possession of flat bearing No. 246, Siddharth Enclave, New Delhi - 110 014, therefore, he along with his family shifted to the said Siddharth Enclave flat from the earlier residence of Ashok Vihar. Even parents of the petitioner also shifted to this newly acquired flat at Siddharth Enclave. With this change of address of his brother and shifting of parents to the same house, the petitioner wrote a letter to the Assistant Director (Incharge) Rohini, Scheme, DDA intimating the said change of address for all future correspondence and as per the petitioner the said letter was duly received by the respondent DDA vide diary No. 35283 dated 26.12.1983. In the said letter it was also intimated that he had appointed his father as general attorney, so that he should be able to deal with the respondent DDA for anything concerning the said plot applied by the petitioner. Photocopy of general power of attorney as executed by the petitioner in favor of his father was also forwarded to the respondent DDA along with the said letter. It is further stated that the respondent DDA failed to record the change of address in their records with the result no communication was sent to the petitioner by the respondent at the changed address with regard to the allotment-cum-demand letter in respect of allotment of plot bearing No. 54, Pocket 12, Sector 24, Rohini, Delhi. The name of the petitioner was included in the draw of lots held by the DDA on 27.3.1991, but his allotment-cum-demand letter was sent by the respondent DDA at the two old addresses given by the petitioner at the time of registration, but the said demand letter was never sent to the petitioner at the changed address. The petitioner was totally unaware of the allotment having been made in his favor by the respondent DDA and it is only

some time in August, 2004 that he had approached the office of the DDA so as to ascertain his status, after having come to know that two draw of lots were held in that year for the registrants of RRS 1981. The petitioner also made a representation dated 2nd August, 2004 to the Deputy Director, DDA so as to know the fate of the said registration made as long back as in the year 1981. After receiving no response from the respondent DDA to the above said representation, the petitioner appeared in a public hearing before the Deputy Director, Rohini on 2nd September, 2004 and it was then revealed to the petitioner that in the draw held on 27.3.1991 he was allotted plot bearing No. 54, Pocket 12, Sector 24, Rohini, Delhi. After having come to know about the same the petitioner made a representation dated 6.9.2004 informing the respondent DDA that he never received any allotment letter from their office. In the month of September, 2006 the petitioner came across the public notice issued by the respondent DDA for attention of the registrants of Rohini Residential Scheme, 1981 informing the registrants that the request for change of address will now be entertained by the DDA's Rohini Branch only if such applications are submitted along with a copy of FDR and proof of residence. Pursuant to the said advertisement the petitioner had again intimated the change of address vide letter dated 3.11.2006 along with the attested copy of FDR, photocopy of the application for change of address dated 26.12.1983 and attested copy of passport. On receiving no response from the respondent the petitioner was constraint to file the present writ petition.

3. In the counter affidavit filed by the respondent DDA, the respondent DDA has not denied the fact that the petitioner was declared successful for the allotment of MIG plot No. 54, Pocket 12, Sector 24, measuring 60 sq.mtrs. in Rohini Residential Scheme through the draw held on 27.3.1991, but disputed the position of any letter dated 2.8.2004 sent by the petitioner intimating the priority numbers as covered under the draw held on 27.3.1991. Through an advertisement a specific mention in the advertisement was made as to how the allottee can seek change of his address. The said insertion as carried out by the respondent DDA in the advertisement is reproduced as under:

The successful allottees who have changed their address are once again requested to submit intimation of change of address, if any, on a plain paper

enclosing therewith photocopies of FDR and Ration card duly attested by the Gazetted Officer at the receipt counter of Lands Department, Ground floor, B-Block, Vikas Sadan, New Delhi by 20.4.1991, so that the demand-cum-allotment letters could be sent at the desired address. Outstation allottees may, however, send the applications along with the above documents through Regd. AD only, addressed to Dy. Director (LSB) Rohini, DDA, -C-3 Block, First Floor up to 30.4.1991 at the latest. In case of any lapse on part of the allottees/registrants to intimate change of address correctly and in time, the allotted/registrants shall have to bear the consequences.

4. Since there was no response from the side of the petitioner seeking any change in address, therefore, the respondent sent the demand-cum-allotment letter dated 15.11.1991 at both the addresses as furnished by the petitioner at the time of seeking his registration. The said letter sent at both the addresses returned undelivered. The respondent had given another advertisement in the newspaper on 19.12.1991 inviting the successful registrants to obtain their demand-cum-allotment letter as number of demand-cum-allotment letters sent to the successful registrants were received back undelivered. It was also intimated that if the demand-cum-allotment letters were not received by 15.1.1992 then such allotment would be cancelled without further reference to them. Due to their being no response from the side of the petitioner the DDA cancelled the said allotment on 27.12.1993 and necessary intimation to this effect was sent to the petitioner on 17.11.1994 at his permanent address. The respondent DDA does not dispute the public hearing attended by the petitioner on 2nd September, 2004 and the letter written by the petitioner dated 3.11.2006 enclosing therewith the requisite documents sought by the respondent in support of change of address and deposit made towards registration charges. Receipt of letter dated 2nd August, 2004 is also denied by the respondent as the same was wrongly addressed by the petitioner to a branch not concerned with the Rohini allotments. Besides taking the said position the respondent has further disputed signatures of the petitioner, which as per them did not tally with the registration application. Even the date of birth as declared in the registration application differed from the copy of the passport submitted by the petitioner. On account of such discrepancies the respondent DDA found that even the identity of this petitioner became doubtful. It

is also stated that no documentary proof of residence or copy of FDR was furnished along with the alleged request for change of address made on 26.11.1983. The petitioner also never responded to the advertisement dated 6.4.1991 and also to the advertisement published on 19.12.1991, calling the registrants to come forward to collect the allotment letters. The respondent has also reproduced the policy of DDA on restoration due to change of address in its counter affidavit to contend that the petitioner did not follow the said policy for recording change of his address.

5. I have heard learned Counsel for the parties and perused the records.

6. It is not in dispute that the petitioner got himself registered for the allotment of an MIG Plot in the Rohini Residential Scheme in 1981 vide his application No. 71043 dated 27.3.1981. It is further not in dispute that at the time of his seeking registration, the petitioner had given two addresses, one of them as 'Present Address' and the other as 'Permanent Address'. It is also not in dispute that the petitioner at the relevant time was working as Veterinary Surgeon and his nature of job was transferable due to which he remained posted at different places at different timings. Due to his transferable job, he had given the permanent address where his brother Mr. G.C. Singh was residing and the other address where his father was posted as Chief Chemist. thereforee, none of the addresses furnished by the petitioner at the time of seeking his registration were personal addresses of the petitioner and rightly so when the petitioner had no fixed place of abode. The petitioner also could not gain knowledge of various advertisements appearing in newspapers declaring the result of the draw held on 27.3.1991 or when the successful allottees were called upon to intimate change of address, if any, along with requisite proofs. It is further an admitted position borne out from the stand taken by the respondent DDA that demand-cum-allotment letters sent by the respondent DDA at both the said addresses of the petitioner returned back undelivered. With this scenario of facts, at least no doubt can be raised on the eligibility of the petitioner who became successful for allotment of a plot bearing MIG Plot No. 54, Pocket 12, Sector 24, Rohini measuring 66 sq mts, in the draw of lot held on 27.3.1991.

7. As regards intimation for change of address is concerned the case set up by the petitioner is that the due intimation of change of address was given by the petitioner vide his letter dated 26.12.83 and the same was duly delivered at the receipt counter of the DDA vide diary No. 35783 dated 26.12.83. The respondent DDA has seriously disputed receipt of the said letter and also took a stand that the said letter was not in accordance with the policy of the DDA whereby the request for change of address was to be accompanied with necessary documentary proof of residence along with copy of the FDR duly attested by Gazetted Officer. The stand of the respondent DDA is not only that the said communication dated 26.12.83 was not received by the DDA but the same, even if was sent by the petitioner, was not in accordance with policy of DDA as neither any copy of the Ration Card nor any copy of FDR was enclosed/attached with the said letter. As regards the receipt of the said letter is concerned, the petitioner clearly indicated that the same was received by the DDA vide diary No. 35783 dated 26.12.1983 and on the duplicate copy of the application, seal of the DDA is also affixed. The respondent DDA is not in a position to verify the said diary number as the relevant records prior to 1985 of Central Receipt and Dispatch Section of DDA are not available with them. In view of this position, once the relevant records of Central Receipt and Dispatch Section are not available with the DDA, then, on what basis the receipt of letter dated 26.12.1983, intimating the change of address can be disputed by the DDA. The respondent DDA could have disapproved the receipt of the said letter only if the relevant records of Central Receipt and Dispatch Section of DDA were available with them. With regard to contention of respondent DDA that the said request was not accompanied with necessary proofs of attested Ration Card as well as attested copy of FDR, it would be suffice to state that the change of address intimated by the petitioner was of his brother and not of the petitioner himself, and therefore, the said request made by the petitioner limited for the purpose of future correspondence could have been entertained by the respondent. Even in the case of the said application of the petitioner being not found in conformity with policy guidelines of the respondent DDA, then the respondent DDA could have replied back to the petitioner that the application filed by him seeking change of address was not in consonance with the policy guidelines of the respondent DDA. No such reply to the said communication was

sent by the DDA to the petitioner. implicate denial on the part of the respondent to the said communication of the petitioner dated 26.12.1983 cannot be given any weightage or credence when copy of the said letter placed on record by the petitioner shows that there is a seal of the respondent DDA and the same also bears entry No. along with date of receipt of the said communication. In any event of the matter, the petitioner had again intimated the said change of address vide letter dated 3.11.2006 pursuant to the advertisement of the respondent DDA 16.9.2006 and this time the request was duly accompanied with all the relevant documents as per the policy of the DDA. The advertisement of the respondent dated 16.9.2006 clearly shows that respondent DDA was still entertaining the request of registrants of Rohini Residential Scheme of 1981 to apply for the change of address along with the requisite proof meaning thereby that the scheme for the registrants of Rohini Residential Scheme 1981 was still open and not closed.

8. This time when the petitioner had annexed all the requisite documents along with his application dated 3.11.2006, the office of the respondent DDA found various discrepancies with regard to the signatures of the petitioner, date of birth and also some other irregularities. Due to such discrepancies, the respondent DDA found that identity of the petitioner became doubtful, and therefore, the petitioner was not found eligible. Since a dispute was raised on the identity of the petitioner as well as some discrepancies in the documents furnished by him, therefore, this Court had directed personal presence of the petitioner along with production of relevant documents comprising Passport, Ration Card and the original Registration Certificate. After verifying the documents produced by the petitioner, I find that there is no merit in the said argument of the learned Counsel for the respondent that there were some major discrepancies in the documents produced by the petitioner.

9. Without denying the right of the respondent to verify the identity of the registrant, officials of the DDA have to be careful in not attaching much importance to minor discrepancies so as to deny valuable right of the petitioner to get an allotment of a flat/plot. Even otherwise, the office of the DDA could have sought clarification from the petitioner with regard to the discrepancies in its date of birth

as well as the signatures. The respondent DDA must not forget its social objective to provide houses to the citizens who desperately look towards this monopolistic body engaged to fulfill the aspirations of people.

10. In the background of the aforesaid facts the respondent DDA is directed to allot another plot admeasuring 60 sq. meters in favor of the petitioner in any of the developed sector in Phase-I, II and III of Rohini and in case of non availability of any such similar plot in any of the developed sector of the Rohini, then to allot such similar plot in the nearest possible sector on the old cost together with the interest @ 7% as per the policy of the DDA. The fresh demand-cum-allotment letter of such plot shall be issued by the respondent DDA within a period of 60 days from the date of this order and the possession of the same shall be delivered in favor of the petitioner within a period of 30 days after payment of the amount by the petitioner against the said fresh demand letter.

11. With these directions, the writ petition stands disposed of.

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