

Prabha Arora Vs. Delhi Development Authority

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Court : Delhi

Decided On : Nov-29-2001

Reported in : 95(2002)DLT861

Judge : Manmohan Sarin, J.

Appeal No. : CW No. 4720/2000 and CM 7327/2000

Appellant : Prabha Arora

Respondent : Delhi Development Authority

Advocate for Def. : Sanjay Kumar Singh, Adv.

Advocate for Pet/Ap. : Richa Kapoor, Adv

Disposition : Petition allowed

Judgement :

Manmohan Sarin, J.

Rule.

1. With the consent of the parties, writ petition is taken up for disposal.
2. The petitioner's father Shri Jagdish Chand Janveja had got himself registered with the respondent for an MIG flat under the New Pattern Registration Scheme

1979. The registration was done vide registration No. 28677, Priority No.9110 on 4.6.1980. In due course, an allotment-cum-demand letter bearing No. M.O.24/(395)/90 RO/NP dated 14/21.2.90, for a MIG flat under the Hire Purchase scheme was issued. Petitioner's father by the said letter was allotted a flat bearing No. 40, Block-A, Pocket-4, Sector 18, Rohini at a disposal cost of Rs. 1,55,800/-. Apart from the registration amount, Petitioner's father had duly deposited a sum of Rs. 26113.70 in response to the aforesaid allotment-cum-demand letter. Challan for the same has been produced. Petitioner's father had also submitted requisite documents required vide his letter dated 30.4.1990.

3. It is the petitioner's case that her father suffered a paralytic attack and was thereforee unable to put his signatures. He accordingly put his thumb impression. Petitioner's father not having received any response, addressed a communication dated 25.11.1991, which was duly received by the respondents, explaining that he was physically paralysed and was unable to put his signatures and had thereforee affixed his thumb impression. This was repeated in subsequent communications Annexures P.6 to P.9. The respondents however on the basis of nurturing some doubt with regard to the identity of the petitioner and his signatures having not been appended, cancelled the allotment of the petitioner. The petitioner's father expired on 4.2.1997. The question of justification or validity of the cancellation need not detain us any further since the respondent itself in the affidavit filed have accepted that the allotment in favor of Shri Jagdish Chand Janveja was cancelled only on the ground that in the application form he had put his signature in English, while on the documents furnished by him later for getting possession, only thumb impression was given. It is also admitted that the petitioner's father had deposited the demanded amount in time and also furnished the requisite documents within time. Averment in the affidavit summing up the position is as under:-

'Only on the basis of the doubt created due to thumb impression, his allotment was cancelled.'

4. From the foregoing it is clear that the action of the DDA in cancelling the allotment was wholly unjustified. In the teeth of repeated letters addressed by the petitioner's father, stating that he could not put his signatures on account of the

paralytic attack, which had affected his hands the decision to cancel the allotment on the basis of nurturing a doubt was wholly unwarranted. Petitioner's father had even offered to file affidavits on oath and submit proof of paralytic attack.

5. Be it may, respondents have now allotted a flat to the petitioner, who is the legal heir/representative of the deceased i.e. flat No. 365, Top Floor, Sector-18, Pocket C-8, Rohini. Counsel for the respondent submits that the petitioner should be directed to pay interest @ 12% on the unpaid amount.

6. In the instant case, the petitioner had duly paid the amount as was then payable under the allotment-cum-demand letter. The petitioner was therefore required to pay only the Hire Purchase Installments. Respondents wrongfully cancelled the allotment and hence the petitioner could not have made payment in respect of those Installments. The respondents having accepted their error by allotting a flat. The petitioner in these circumstances, cannot be burdened with interest as there was no unpaid amount when the allotment was cancelled.

7. Learned counsel for the petitioner has drawn my attention to the judgment of this Bench in CW No. 6275/99 titled Prem Lata Chhabra v. Delhi Development Authority and Division Bench judgment of this court in CW No. 201/93 titled Asha N. Madnani v. Delhi Development Authority and Ors. Learned counsel for the petitioner also draws support from judgment of the Division Bench in CW No. 4796/95 titled Apar Kaur v. Delhi Development Authority .

8. Learned counsel for the petitioner with a view to put an end to this controversy submits that the petitioner will pay the entire balance amount of the old cost on cash basis. Let the petitioner pay the balance amount of the old cost on cash down basis within 4 weeks. Upon payment being made and upon completion of requisite formalities, let possession of the flat be handed over to the petitioner.

9. Writ petition stands allowed in the above terms.