

**Ashok Kumar Guliani Vs. Delhi Development Authority**

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**Court : Delhi**

**Decided On : May-19-2008**

**Reported in : 2008(103)DRJ624**

**Judge : Kailash Gambhir, J.**

**Appeal No. : WP (C) No. 831/2007**

**Appellant : Ashok Kumar Guliani**

**Respondent : Delhi Development Authority**

**Advocate for Def. : Yeeshu Jain, Adv.**

**Advocate for Pet/Ap. : Richa Kapoor, Adv**

**Judgement :**

Kailash Gambhir, J.

1. The petitioner in the present petition seeks mandamus against DDA for allotment of any vacant MIG flat in the Rohini Zone on the terms and conditions and cost as prevalent in the year 2002, after treating the case of petitioner duly covered under the 'Wrong Address Policy' of DDA.

2. Ms. Richa Kapoor, counsel appearing for the petitioner submits that the intimation of new address of the petitioner was given to the respondent DDA, but still the respondent/DDA had sent the demand-cum-allotment letter at the address

of the petitioner, which was given at the time of registration in the year 1979. Grievance raised by the petitioner in the present petition is that in the year 1979 the petitioner got himself registered under the New Pattern Registration Scheme, 1979 for allotment of MIG flat and was allotted registration number 17790 with priority No. 24464. At the time of registration the petitioner had given his address as C6/39A, Lawrence Road, Delhi -110035. Some time in the year 1980 the petitioner had shifted his residence and since then he has been residing at premises bearing No. A-172, Derawal Nagar, Delhi -110009. It is further stated that change of the address of the petitioner was duly intimated to the respondent, which fact would be evident from the communication made by the respondent addressing all letters/replies to the petitioner at the changed address. It is further stated that the petitioner lost the original certificate of registration and therefore, vide application dated 30th October, 1980 request was made by the petitioner to the respondent for issuance of duplicate certificate of registration, which request was declined by the petitioner. It is, however, claimed that vide letter dated 31st October, 1980 the respondent reaffirmed that the petitioner's name was registered at serial No. 24464 under MIG category in NPRS, 1979. It is further stated that pursuant to some advertisement issued by the respondent inviting applications from MIG registrants for conversion of their MIG category to SFS category, the petitioner applied for conversion of his registration from MIG category to SFS category by depositing the requisite conversion charges of Rs. 15,821/- vide letter dated 5th October, 1989.

The respondent had requested the petitioner to submit photocopies of certain documents including the original FDR through which the payment towards conversion charges was made by the petitioner. The petitioner vide his letter dated 25th April, 1990 had submitted all the requisite documents as required by the respondent and vide letter dated 31st May, 1990 request of the petitioner for the said conversion was disallowed by the respondent. The petitioner vide letters dated 31.7.1990 and 9.1.1991 reiterated his request for considering his case favorably for the conversion of his registration from MIG to SFS, but again the said request of the petitioner was rejected by the respondent vide their letter dated 5.2.1991. Vide representation dated 19.1.1993 the petitioner made a request for the refund of Rs. 15,821/- paid by him towards conversion charges and the said

request was reiterated by the petitioner through letters dated 11.3.1993,12.4.1993, 18.5.1993 and 20.6.1994. The said amount of Rs. 15,821/- was returned by the respondent by way of cheque along with covering letter dated 21st October, 1994, but without granting any interest on the said amount. That somewhere in December, 2002 the petitioner was allotted a flat bearing No. 56 (2nd floor), Sector 23, Pocket 11A, Rohini, but the allotment letter with regard to the said flat was never received by the petitioner as the same was sent by the respondent to the previous address i.e. property bearing No. C-6/39-A, Lawrence Road, Delhi - 110 035, which was given by the petitioner at the time of seeking registration under the said scheme. The petitioner was never aware of the aforesaid allotment made by the respondent and, therefore, he made a representation to the Assistant

Director, DDA vide letter dated 11.10.2004 thereby making a request for early allotment of a flat. The petitioner has further written letters vide letters dated 20.11.2005,28.11.2005 and 12.12.2005 reiterating his request, but to the surprise of the petitioner he had received a letter dated 23rd December, 2005 from the Assistant Director (MIG) DDA informing the petitioner that the allotment made in his favour vide letter dated 30.12.2001 was cancelled. After receipt of the said letter the petitioner vide his letter dated 17.2.2006 informed the Assistant Director (MIG) of the fact that he had never received the allotment letter of the aforesaid flat. Request was, therefore, made by the petitioner for the allotment of an alternative flat.

It is also stated that the case of the petitioner is covered within the policy of the respondent as the intimation by the respondent for allotment of the said flat was sent at the wrong address of the petitioner, although the latest and correct address was available with the respondent in their file. Based on these facts the petitioner has claimed to treat his case as covered by 'recording of wrong address policy' of DDA. Directions have also been sought for allotment of the MIG flat in the same zone on the same terms and conditions and cost as prevalent in the year 2002 in terms of the policy of the DDA. Counsel for the petitioner invited attention of this Court to the various letters sent by the respondent DDA at the changed address of the petitioner. Copies of these letters dated 3.10.1980, 5.10.1989, 31.5.1990, 5.2.1991, 21.10.1994 and 23.12.2005 have been placed on record by the

petitioner. Counsel appearing for the petitioner has also placed reliance on the policy of the DDA to contend that the case of the petitioner is a case of wrong address and therefore, the petitioner is entitled to the benefit of the said policy. Counsel appearing for the petitioner also placed reliance on various judgments of this Court in DDA v. Jaspal Singh (LPA No. 26/2000), TRS Vardhan v. DDA (CWP 203 of 1995), Mrinal Kant Ghosh v. DDA (WPC 2558 of 2000), DB Bose v. DDA (WPC 1816 of 1998) and Shanta Bhagati v. DDA (LPA No. 2272 of 2005). Counsel thus urged that the petitioner is entitled to the allotment of the MIG flat in the same zone i.e. Rohini Zone on the same terms and conditions as prevalent on the date of allotment i.e. in the year 2002 in terms of the policy of the DDA.

3. Mr. Yeeshu Jain, counsel appearing for the respondent/DDA refuting the said submissions of the counsel for the petitioner submitted that the petitioner cannot claim advantage of the correspondence addressed by the respondent at the changed address of the petitioner when no specific communication was made by the petitioner intimating the respondent about the change of his address. Placing reliance on the policy of the DDA and also on the terms of the said NPRS brochure counsel contended that it was incumbent upon the petitioner to have duly notified the change of address to the respondent along with all requisite documentary proofs. Counsel further submitted that even as per the certificate issued by the respondent dated 20.4.1981 address of the petitioner as was disclosed in his registration form has been given. The contention of the counsel for the respondent is that the certificate dated 20.4.1981 issued by the respondent would belie the contention of the petitioner that in the year 1980 he had shifted to his new address.

5. I have heard learned Counsel for the parties and have perused the documents placed on record.

6. The stand taken by the respondent DDA that since no communication was made by the petitioner along with supporting documents seeking change of his address is not only absurd, but reflects the mind set of the officials of the DDA, who have been shamelessly perpetuating their illegal acts at the sufferings and harassment of the citizens. It is mind boggling and baffling to note that the DDA

could send all its letters at the changed address of the petitioner i.e. A-172, Derawal Nagar, Delhi - 110009, but demand-cum-allotment letter was sent to the old address of the petitioner as was disclosed in the application format the time of registration. The DDA even did not choose to send the said demand-cum-allotment letter at the new address of the petitioner even after the demand-cum-allotment letter sent to the old address returned undelivered. This fact of return of envelope containing the demand-cum-allotment letter was disclosed by the counsel for the respondent during the course of the arguments.

7. There cannot be any dispute that with a view to avail benefit of the policy the registrant is required to intimate his/her changed address, but it is equally true that once the changed address of the registrant is available on the record of the DDA, then, in such like cases the DDA cannot turn around and say that the change of address was not intimated by the registrant more particularly when the respondent DDA itself kept on sending series of letters/replies to the petitioner at the changed address. The perversion and negativity on the part of the officials of the DDA is writ large on account of the fact that when the allotment was to be conveyed to the petitioner the communication was sent at the old address and when the cancellation of allotment was to be conveyed then the same was sent at the changed address. Things appear to have gone drastically wrong at the end of the DDA. It is bizarre that DDA could send number of letters at the new address of the petitioner, but could not send the demand-cum-allotment letter at the said new address. Endeavour was not made even after the envelop containing the demand-cum-allotment letter directed at the old address was received back undelivered.

8. The case of the petitioner is wholly covered within the policy of the DDA and based on the same the petitioner is entitled to allotment of a flat in the MIG category in the same zone i.e. Rohini on the cost as prevalent in the year 2002 i.e. on the date of allotment and since the petitioner failed to approach the Court within four years from the date of issue of demand-cum-allotment letter the allotment of flat in favour of the petitioner shall be made by the respondent at the old cost with 12% simple interest thereon. The respondent shall issue demand-cum-allotment letter within a period of four weeks from the date of this order and possession of the flat shall be delivered to the petitioner within a period of three weeks from the

date of the payment made by the petitioner towards the cost of the flat as raised by the respondent in terms of their policy.

9. With these directions the writ petition is disposed of.

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