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Dda Vs. M.L. Aggarwal

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SooperKanoon Citation : sooperkanoon.com/713415

Court : Delhi

Decided On : Feb-02-2006

Reported in : 127(2006)DLT572; 2006(87)DRJ693

Judge : Markandeya Katju, C.J. and; Madan B. Lokur, J.

Acts : DDA (Disposal of Developed Nazul Land) Rules, 1981 - Rule 17

Appeal No. : LPA 191/2004

Appellant : Dda

Respondent : M.L. Aggarwal

Advocate for Def. : Harish Malhotra Sr. Adv. and ; Nitin Aggarwal, Adv.

Advocate for Pet/Ap. : C. Mohan Rao, Adv

Disposition : Appeal dismissed

Judgement :

Markandeya Katju, C.J.

1. This writ appeal has been filed against the impugned judgment of the learned Single Judge dated 31.10.2003.

2. Heard learned counsel for the parties and perused the record.

3. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not repeating the same except where necessary.

4. The petitioner applied for allotment of a plot in Rohini Residential Scheme and he was issued an allotment letter dated 29.11.1983 against which he deposited the amount of the said plot.

5. The question in this case is that whether the petitioner was disentitled from getting the allotment in view of the fact that his wife had already been allotted a plot.

6. In this connection Rule 17 of the DDA (Disposal of Developed Nazul Land) Rules, 1981 states:-

General restriction to allotment for residential purposes-- Notwithstanding anything contained in these rules, no plot of Nazul land shall be allotted for residential purposes, to an individual other than an individual referred to in clause (i) of rule 6, who or whose wife or husband or any of his or her dependent children whether minor or not, or any of his or her dependent parents or dependent minor brothers or sisters, ordinarily residing with such individual, own in full or in part, on lease hold or free-hold basis, any residential land or house or who has been allotted on hire purchase basis any residential land or house in the Union Territory of Delhi:

Provided that where, on the date of allotment of Nazul land.

(a) the other land owned by or allotted to such individual is less than 67 square metres, or

(b) the house owned by such individual is on a plot of land which measures less than 67 square metres, or

(c) the share of such individual in any such other land or house measures less than 67 square metres, he may be allotted a plot of Nazul land in accordance with the other provision of these rules.

Admittedly, the wife of the petitioner has a plot of area 31.28 sq. metres which is less than 67 sq. metres. In our opinion, the proviso to Rule 17 means that if the

wife has a plot of more than 67 sq. metres then the husband cannot be allotted a plot. However, if the wife has been allotted a plot which is less than 67 sq. metres, the prohibition contained in the main part of Rule 17 does not apply. In our opinion, this is the simple and plain meaning of Rule 17 and we cannot twist its language. The petitioner was allotted a plot because his allotment came through a draw of lots in the regular course.

7. Thus, there is no force in this appeal and it is dismissed.

8. Interim order, if any, stands vacated.

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