

Govind Singh Vs. State and ors.

Govind Singh Vs. State and ors.

SooperKanoon Citation : sooperkanoon.com/762334

Court : Rajasthan

Decided On : Mar-19-1993

Reported in : 1993(3)WLC272; 1993WLN(UC)242

Judge : Rajendra Saxena, J.

Appeal No. : S.B. Civil Writ Petition No. 1215 of 1990

Appellant : Govind Singh

Respondent : State and ors.

Disposition : Petition dismissed

Judgement :

Rajendra Saxena, J.

1. The petitioner through this petition has prayed that the respondents be directed to consider his application and allot him a plot of land in the Jai Narayan Vyas Colony, Jaisalmer.

2. Briefly the facts set out in the writ petition are that the petitioner, who is employed in the Indira Gandhi Nahar Project, Jaisalmer and whose annual income did not exceed Rs. 30,000/- submitted his application (Annex.

1) some time in July, 1988 to the Chairman of the Notified Area Committee, Jaisalmer (respondent No.

2) for allotment of a plot of land having an area 40 ft. x 70 ft. in the J.N. Vyas Residential Scheme. The Collector, Jaisalmer (respondent No. 3), who was also the Chairman of respondent No. 2, accepted petitioner's request for allotment of a plot of land and passed order for depositing his registration amount. It is the case of the petitioner that as per practice, the said Chairman had passed the order on application (Annex.

1) and no separate order for allotment was issued. It is the case of the petitioner that in pursuance of the said order of the Chairman, he approached the Executive Officer, Notified Area Committee, Jaisalmer (respondent No.

4) for depositing the registration amount on 20.8.1988, but the latter asked him not to worry and assured that his application will be considered and that he will be informed accordingly. The petitioner deposited the registration fees of Rs. 3000/- for 'A' category plot on 17.2.1989 vide receipt Annex. 2 and since then his application has been pending consideration. The petitioner submitted an application dated 13.4.1989 (Annex.

3) to the Chairman, N.A.C., Jaisalmer wherein he alleged that as per the advertisement published in the Rajasthan Patrika dated 4.2.1989 (Annex.

6) as many as 31 applicants, who had submitted their applications for allotment of land in J.N. Vyas Scheme and had not deposited the remaining amount of the price of the plot along with interest were directed to deposit the entire remaining amount by 28th Feb., 1989 and that some of the allotments of the defaulters have been cancelled. He also mentioned that as he fulfilled all the conditions of the eligibility and was prepared to deposit the entire amount, he may be allotted one of those vacant plots, which are available due to the cancellation of allotments of defaulters. Thereafter he also sent letters dated 6.9.1989 (Annex.

4) and 21.12.1989 (Annex.

5) to the Area Commissioner, Jodhpur Region, Jodhpur and to the Chairman and Collector, N.A.C., Jaisalmer for implementing the already ordered allotment of plot of land in his favour. According to the petitioner his letters remained unattended. The petitioner has contended that he has now come to know that some plots in the J.N. Vyas Colony were going to be re-auctioned and that his application for allotment of land has neither been considered nor any decision has been taken thereon nor any reply has been given to him. He has further contended that if the plots in the J.N. Vyas Colony are auctioned then he will be deprived to get any plot, though he is a landless person. According to him, the respondents are under a statutory and obligatory duty to consider his application and to allot him a plot of land because he fulfills all the conditions of eligibility. He has, therefore, prayed that his application be considered and the respondents be directed to allot him a plot of land in the J.N. Vyas Colony, Jaisalmer.

3. No reply has been filed on behalf of respondents No. 1 & 3.

4. The respondents No. 2 & 4 in their counter have hotly contested this writ petition. They have averred that the petitioner has made totally false case and concealed material facts. They have averred that the last date for receiving the application for allotment of plots of land in the J.N. Vyas Colony was July, 1988, but the petitioner submitted his application (Annex. 1) as late as on 17.2.1989. He even did not deposit the registration fees in prescribed time. Therefore, his application (Annex. 1) could not be considered. It has been asserted that such application should have been presented before the Executive Officer (respondent No. 4), that no order for allotment of plot was ever made or passed in favour of the petitioner, that on the other hand all the residential plots in the J.N. Vyas Colony were sold by auction, that the petitioner had submitted his application after the auction of plots of land was over and deposited the registration amount of Rs. 3000/- on 17.2.89 and that there was neither any verbal conversation between the petitioner and respondent No. 4 nor any assurance was ever given to him. The petitioner had deposited the registration amount by keeping the concerned clerk in dark and procured the receipt dated 17.2.1989, and that by that time all the plots in the J.N. Vyas Colony Scheme had already been sold out to the persons who had participated in the auction proceeding and whose bids were the highest. The

petitioner did not participate in the auction proceedings for the purchase of the plot and there is no provision in the Rules for direct allotment of the plot of land. Therefore, the petitioner by merely depositing the registration amount after the prescribed time does not have any vested right for securing the allotment of the plot of land. The registration fees is refundable and the petitioner can, take back the said amount. It was emphatically denied that there was any unallotted plot of land in the J.N. Vyas Scheme or that any such plot was going to be re-auctioned. The respondents have also asserted that J.N. Vyas Colony Scheme is now not in force and that the concerning file has already been closed.

5. The petitioner in his rejoinder has not denied that the last date for filing the application was July, 1988, but has alleged that more than fifty plots in the J.N. Vyas Scheme have been given by allotment and that still some plots were lying. He has admitted that he had filed his application on 30.8.1988 and not on 17.2.89 and that by that time process of allotment had not commenced. He has reiterated that the respondents did not inform him about the rejection of his application.

6. I have heard the learned Counsel for the parties at length and perused the relevant record. The respondents have also produced for perusal the original file containing petitioner's application (Annex. 1) and his other letters.

7. From a bare perusal of the original application (Annex. 1), it appears that the petitioner was working as a Senior Accounts Officer in the Indira Gandhi Nahar Project, Jaisalmer in April, 1988 and that his basic pay was Rs. 2540/- per month, besides other admissible allowances. His application (Annex. 1) was verified by Assistant Collector and Executive Magistrate, Jaisalmer on 19.10.88. However, on the said application, there is an endorsement 'sale of land' signed by some body on 30.8.1988. Then there is another endorsement to the effect 'Cashier, please deposit money Rs. 3000/-' signed by some body bearing a. date 17.2. and in pursuance thereof an amount of Rs. 3000/- was deposited in the Notified Area Committee, Jaisalmer on 17.2.1989 vide book No. 24 receipt No. 36 as per endorsement made by the Cashier & A/c and a receipt dated 17.2.1989 (Annex. 2) was issued. Therefore, it stands firmly established that application (Annex. 1) was not filed before the Notified Area Committee, Jaisalmer up to 31st July, 1988, but

was subsequently filed after 19.10.88, because the contents of application were attested by the Assistant Collector & Executive Magistrate on 19.10.1988, and the registration amount was deposited as late as on 17.2.1989. Therefore, there is no reason to disbelieve the assertions made by the respondents No. 2 & 4 that the last date for receiving such applications was 31st July, 1988. Hence, petitioner's application (Annex. 1) was filed much after the prescribed ate. This fact also stands proved from a careful perusal of urgent notification dated 4.2.1989 (Annex. 6) issued by the Executive Officer, N.A.C., Jaisalmer, wherein names of the defaulting applicants for Indira Nagar Scheme, Gandhi Nagar Extension Scheme and J.N. Vyas Colony Scheme were mentioned along with their respective plot numbers. It was mentioned therein that if the defaulters, did not deposit the entire price amount along with interest and penalty by 28th Feb., 1989 their allotments for plot of land shall be cancelled and the registration fees deposited by them shall be forfeited. Admittedly in Annexure-6, petitioner's name does not find mention. Therefore, it stands amply proved that the petitioner had not filed his application and deposited the registration amount within the prescribed period, and that the plots of land in J.N. Vyas Colony Scheme had been allotted along back. This fact also stands proved from the contents of petitioner's letter dated 13.4.1989 (Annex. 3), wherein vide para No. 3, he has clearly mentioned that he wanted to deposit the entire amount and that he may be informed about the position regarding the vacant plots due to the cancellation of plots allotted in favour of defaulting allottees.

8. The petitioner in his writ petition has tried to conceal material facts in as much as that he did not specifically mention the date of filing his application (Annex. 1). He also did not care to give the name of the officer, who had assured him to make allotment of plot of land in his favour orally and ordered for depositing of the registration amount. On application (Annex. 1), there is no order for making allotment of a plot of land in favour of the petitioner. Thus, on the basis of such vague, incomplete and misleading pleadings, he has unsuccessfully tried to make out a case as if he had filed the application (Annex. 1) and deposited the registration amount within the prescribed period. In such circumstances, there was no question of considering petitioner's application (Annex. 1), which was apparently time barred. Simply by depositing the registration amount after the

prescribed period and after the plots of land in J.N. Vyas Colony had already been auctioned and allotted, no vested right accrues in the petitioner. The respondents have also clearly pleaded that the J.N. Vyas Colony Scheme is not in force now and has been closed long back. Therefore, petitioner's application (Annex. 1) did not warrant any consideration.

9. Hence, refracted from any angle, this writ petition is clearly misconceived and devoid of any force or substance and the same is hereby dismissed. The respondents No. 2 & 4 shall, however, refund the registration fees amount of Rs. 3000/- to the petitioner as per Rules. No order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com