

Mohd. Sualeheen Vs. M.C.D. and Others

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Court : Delhi

Decided On : Mar-28-2011

Judge : Sanjiv Khanna, J.

Appeal No. : LPA No. 297/2011

Appellant : Mohd. Sualeheen

Respondent : M.C.D. and Others

Advocate for Def. : Mr. Mukesh Gupta, Adv.

Advocate for Pet/Ap. : Mr. S.P. Sharma, Adv.

Judgement :

ORDER

CM No. 6374/11

For reasons stated in the application, the delay in filing of the appeal is condoned.

LPA No. 297/2011

1. The prayers made in the present Letters Patent Appeal are in the nature of prayers which are normally made before the first court. During the course of arguments, it is contended that the appellant has challenged the order dated 24th December, 2010, passed by the learned Single Judge dismissing the writ petition but granting time to the appellant to deposit the balance sale consideration @

Rs.7000/- per sq. mtr. along with interest @ 10% per annum. It is submitted that the subsequent order dated 25th January, 2011 is also challenged.

2. The contention of the appellant is that he has made payment of Rs.9,60,000/- for allotment of plots in Ghogha Dairy colony @ Rs.2,500/- per sq. mtr. Ultimately, 2 plots have been allotted in terms of the policy but the respondent Municipal Corporation of Delhi (MCD) has raised the price of each plot to Rs.7000/- per sq. mtr. It is submitted that Rs.9,60,000/- was deposited on 5th December, 2005, and this amount has remained with the respondent MCD for 5 years and no interest is being paid on the said amount.

3. Learned Single Judge in the impugned order has referred to the controversy and the issues involved in detail and has rightly observed that the present case cannot be equated with simple "offer" and "acceptance" principles of the Contract Act, 1872. In the present case, as a matter of public interest, the respondent MCD has provided land in Ghogha Dairy Project, Narela, Delhi for relocation of eligible illegal dairies operating from urban limits in Delhi. In this process, 1373 applications were received and the said applicants deposited 50% advance payment @ Rs.1250/- per sq. mtr. Later on, a committee was formed as it was realized that there were irregularities and directions were issued by the Delhi High Court in Writ Petition (Civil) No. 3791/2000. On verification, 535 applicants were found to be eligible and remaining 838 applications were cancelled. Obviously, the verification required time. Initially the committee had decided that only one plot should be allotted at the notified rate to applicants whose unauthorized dairy was found operating from the premises belonging to them. Subsequently, it was decided that those running unauthorized dairies on public/government encroached land will also be entitled for allotment but at the market rate. Thus the respondent MCD has been adopting and modifying their policy, keeping in mind the interests of the persons involved. 189 acres of land was transferred to the respondent MCD for the said project @ Rs.23,00,000/- per acre which price was revised to Rs.27,00,000/- per acre in 2009. In these circumstances, the rates offered earlier were required to be re-worked on the basis of total expenditure on development activities including installation of tube-wells etc. On this basis, calculations were made and the market rate was fixed at Rs.36,560/- per sq. mtr.. However, the

respondent MCD vide resolution dated 24th May, 2010 reduced the rate to Rs.7000/- per sq. mtr., taking into consideration interest of the applicants. Thus substantial benefit has been given to the applicants. The entire calculation has been made on no profit no loss basis and in fact the respondent is not earning anything by selling the land @ Rs.7000/- per sq. mtr.

4. In view of the aforesaid explanation, we do not see any reason to interfere with the impugned order. Even if the appellant has deposited Rs.9,60,000/- with the respondent in 2005, the allotment @ Rs.7,000/- per sq. mtr. is substantially lower than the market price. The respondent MCD is entitled to charge and ask the applicants to pay for development activities and recover their expenditure. By no stretch, Rs.7000/- per sq. mtr. was to be regarded as market price for a plot of land in Delhi. Allotments have been made at nominal amount and market price of land in Delhi is at least 5 times higher than the price offered by the MCD.

5. The question of interest on deposits made has been left open as is clear from the order dated 25th January, 2011. Liberty has been granted to the appellant to raise the said question by moving an application.

Therefore, we do not see any reason to interfere and the appeal is accordingly dismissed with no order as to costs.

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