

Hamdard Laboratories Vs. Dda and anr

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Court : Delhi

Decided On : Sep-27-2011

Judge : Rajiv Sahai Endlaw, J.

Appeal No. : W.P.(C) 6044/2010

Appellant : Hamdard Laboratories

Respondent : Dda and anr

Advocate for Def. : Ms. Urvi Kuthiala, Adv.

Advocate for Pet/Ap. : Mr. Shiv Mangal Sharma; Mr. Sitesh, Adv.

Judgement :

1. The petition impugns the communication dated 10 th March, 2010 of the respondent DDA intimating to the petitioner the rejection of the application dated 27th December, 2000 for conversion of flat No.J-202 in Taj Sartaj Co-operative Group Housing Society Ltd. at Link Road, Geeta Colony, New Delhi into freehold, for the reason of non-submission of the required documents/information. The petition also seeks mandamus to the respondent DDA to convert the said flat into freehold.

2. Notice of the petition was issued. Counter affidavit has been filed by the respondent DDA to which a rejoinder has been filed by the petitioner. The counsels have been heard.

3. The counsel for the respondent DDA has invited attention to para 2.12 of the counter affidavit listing out the deficiencies in the application of the petitioner and owing whereto the application for freehold conversion is stated to have been rejected after keeping the same pending for nearly nine years.

4. It has been enquired from the counsel for the respondent DDA as to whether the petitioner had been called upon to complete the said deficiencies. The last communication from the respondent DDA to the petitioner, annexed to the counter affidavit is dated 8 th September, 2008 in which the petitioner has been called upon to produce the following three documents only:-

a. Proof of physical possession of flat like Voters I. Card, Electricity Bill, telephone Bill etc.

b. Undertaking regarding flat is being used only for residential purpose.

c. Resolution of competent authority may be provided vide which a person is nominated in place of Shri S.R. Siddiqui for execution of Conveyance Deed."

5. The counsel for the petitioner has from the documents annexed to the petition demonstrated that the aforesaid three documents already stood supplied to the respondent DDA. The proof of physical possession was supplied, in the form of a Ration Card of the officer/employee of the petitioner who had been allowed to reside in the said flat, undercover of letter dated 29th September, 2003 bearing acknowledgment of the same date of the R&D Cell of Vikas Sadan, at page 105A of the paper book. Similarly the undertaking sought is shown to have been furnished against receipt dated 19th September, 2008 issued by the respondent DDA at page 111 of the paper book. The Resolution in favour of the officer of the petitioner who was to execute the Conveyance Deed is shown to have been submitted undercover of letter dated 16 th September, 2008 in the form of a Power of Attorney in favour of Mr. Javed Akhtar, Law Officer of the petitioner. The counsel for the respondent DDA is not able to controvert the aforesaid documents. No contravention thereof is also found in the counter affidavit of the respondent DDA.

6. The respondent DDA having not shown that the documents, owing to deficiency whereof the application for freehold was rejected, were demanded and the last communication of the respondent DDA to the petitioner, confining the deficiencies to three documents only, the rejection of the application for the reasons of non-supply by the petitioner of the documents/information allegedly sought, cannot be sustained.

7. The petition therefore succeeds. The letter dated 10 th March, 2010 of the respondent DDA is set aside/quashed.

8. The petitioner to appear before the Dy. Director (Housing), DDA on 13th October, 2011 at 1500 hours along with all documents as have been mentioned in the counter affidavit, even if the same are claimed to have been supplied earlier, and the Dy. Director (Housing), DDA is directed to, after examining the said documents if still finds any deficiency therein, to communicate the same in writing to the petitioner against acknowledgment from the petitioner on the same day and the petitioner to complete the said formalities on or before 30th November, 2011. Subject to the petitioner completing the said formalities, the application of the petitioner for freehold conversion be processed further.

9. The petition is disposed of. No order as to costs.

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