

In the Matter of Vs. Dda

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Court : Delhi

Decided On : Jan-12-2012

Appellant : In the Matter of

Respondent : Dda

Advocate for Def. : Dr. Indra Pratap Singh

Advocate for Pet/Ap. : Mr. R.K. Saini, Mr. Vikram Saini

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) No.400/2011 and C.M. No.782/2011 Decided on : 12.01.2012 IN THE MATTER OF SANMUKH SINGH Petitioner Through: Mr. R.K. Saini, Adv. with Mr.Vikas Saini and Mr. Vikram Saini, Advs. versus DDA Respondent Through: Dr. Indra Pratap Singh, Adv. CORAM HON'BLE MS.JUSTICE HIMA KOHLI HIMA KOHLI, J. (ORAL).

1. The present petition is filed by the petitioner praying inter alia for directions to the respondent/DDA to allot him a MIG flat under the New Pattern Registration Scheme, 1979 (NPRS-1979) in lieu of cancellation of allotment of a MIG flat made in his favour in the draw of lots held in the year 2002..

2. The facts of the case lie in a narrow compass. It is the case of the petitioner that in the year 1979, the respondent/DDA announced a scheme for allotment of flats to be built under MIG, LIG and in Janta Category. The petitioner applied for and got himself registered for allotment of a MIG flat under the aforesaid NPRS-1979,

after which, he W.P.(C) No.400/2011 *Page 1 of 7* was allotted registration No.30014. At the time of registration, the residential address given by the petitioner was "House No.19H, Arjun Nagar (Near Green Park), New Delhi-16". In support of the submission that the aforesaid address was the one that was furnished by the petitioner at the time of registration, counsel for the petitioner draws the attention of the Court to Annexure P-1, which is a copy of a deposit receipt dated 26.9.1979 issued by the respondent/DDA reflecting the aforesaid address as the address of the petitioner. In the year 1984, the respondent/DDA prepared a priority list and gave priority numbers to all the registrants and the petitioner herein was given priority No.34910..

3. In the year 2002, as per the priority list, the name of the petitioner came to be included by the respondent/DDA under a draw of lots held for MIG Category and he was allotted a Flat No.70 (Second Floor), Pocket 5, Sector 12, Dwarka Phase-I, New Delhi. But, thereafter, a demand-cum-allotment letter addressed to the petitioner was sent by the respondent/DDA at the wrong address, i.e., "House No.14H, Arjun Nagar, New Delhi" and as a result, the petitioner never received the same and remained unaware of the allotment made in his favour. In the meantime, the respondent/DDA cancelled the allotment made in favour of the petitioner due to non-response/non-payment by the petitioner..

4. It is submitted by the counsel for the petitioner that it was W.P.(C) No.400/2011 *Page 2 of 7* only in the year 2010 that the petitioner came to know that all the registrants under the NPRS-1979 had been allotted flats and the relevant information in that regard was available on the website of the respondent/DDA on the internet. Upon accessing the website of the respondent/DDA on the internet in the month of October, 2010 and on downloading the relevant information pertaining to his registration, the petitioner was surprised to note that his address was wrongly reflected as House No.14H, Arjun Nagar, New Delhi (Annexure P-2). On 25.10.2010, the petitioner made a representation to the respondent/DDA pointing out that the demand-cum-allotment letter was dispatched by the respondent/DDA at the wrong address, and that the said fact was borne out from the information made available by the respondent/DDA at its website on the internet (Annexure P-3). In the aforesaid representation, a further request was

made to the respondent/DDA to allot an alternative flat to the petitioner. Thereafter, a couple of reminders were issued to the respondent/DDA, but as nothing was heard from it, the petitioner filed the present writ petition on 20.1.2011..

5. Notice was issued on the present petition on 21.1.2011. Pursuant thereto, appearance was entered on behalf of the respondent/DDA and a counter affidavit has been filed in the matter, relevant portion of which is reproduced herein below for ready reference : "Shri Sanmukh Singh/petitioner vide W.P.(C) No.400/2011 Page 3 of 7 registration No.30014 had got himself registered for the allotment of MIG flat under NPRS-1979. He was issued a Priority Number 34910 against the above registration number. The petitioner was declared successful for allotment of MIG flat No.70, Second Floor, in Sector-12, Pkt. 5, Phase-I, Dwarka through the computerized draw held on 27.9.2002 on Hire Purchase basis. The demand-cum-allotment letter dated 9.12.2002-16.12.2002 was sent at his address "H.No.14-H, Arjun Nagar (Near Green Park)" with request to deposit the demanded cost of flat as per schedule mentioned therein. The last date of making the initial payment (with interest) was 15.5.2003. However, the demand-cum-allotment letter returned un-delivered from the postal authority with the remarks "No such block". The allotment of flat stood automatically cancelled on account of non- payment/non-response."

6. From the aforesaid stand taken by the respondent/DDA, it is clear that the demand-cum-allotment letter dated 9.12.2002 was dispatched by the respondent/DDA at the wrong address, i.e., H.No.14H, Arjun Nagar (Near Green Park), New Delhi instead of House No.19H, Arjun Nagar (Near Green Park), New Delhi which is the correct address. As the said letter never reached the petitioner, he could naturally not deposit the initial payment by the cutoff date, i.e., by 15.5.2003. The respondent/DDA has taken a stand that the demand-cum-allotment was returned undelivered by the postal authorities with the remarks that "No such block" exists and thus the allotment of the flat made in favour of the petitioner stood automatically cancelled on account of non-payment/non-response. It is further stated that the NPRS-1979 has since been closed after issuance of a public notice in a leading newspaper in this regard and W.P.(C)

No.400/2011 *Page 4 of 7* that the petitioner is only entitled to refund of the registration money as admissible as per the DDA's policy, but, not to an alternative allotment of flat..

7. From the aforesaid facts and circumstances, it is clear that the case of the petitioner falls under the purview of the Office Order dated 25.2.2005 issued by the respondent/DDA (Annexure P-5), wherein it was decided that where demand letters were sent at a wrong/old address and the allottee approaches DDA within a period of four years from the date of allotment, he/she shall be allotted a flat at the old cost, prevalent at the time when the priority of the allottee matured and no interest would be charged. However, in cases where such an intimation had been made but the allottee has not approached the DDA within a period of four years from the date of allotment, it was ordered that the allottee would be considered for allotment of a flat at the old cost prevalent at the time of original allotment along with simple interest @ 12% per annum with effect from the date of original allotment till the date of issue of fresh Demand-cum-Allotment Letter. The case of the petitioner would be specifically covered under the latter situation mentioned in the aforesaid Office Order dated 25.2.2005 since he had approached the respondent/DDA beyond the period of four years from the date of allotment. W.P.(C) No.400/2011 Page 5 of 7.

8. In view of the fact that the respondent/DDA has not denied the fact that the address of the petitioner as reflected in the deposit receipt dated 26.9.1979 issued by the Department, reflected his correct address as House No.19H, Arjun Nagar (Near Green Park), New Delhi, then it was for the respondent/DDA to have ensured that all the correspondence which emanated from its office, was forwarded at the said address. The fault lies at the door of the respondent/DDA, who still proceeded to wrongly register the address of the petitioner in its records as House No.14H, Arjun Nagar, New Delhi, and thereafter started to dispatch letters/make correspondences at the aforesaid wrong address. Hence, the present case is squarely covered under the aforesaid Office Order dated 25.2.2005 issued by the respondent/DDA and it is held that the petitioner is entitled to an alternate allotment of a flat in terms of his registration..

9. Accordingly, the present petition is allowed and disposed of with directions to the respondent/DDA to hold a mini draw of lots within a period of three months, wherein the name of the petitioner shall be included for allotment of a flat in the MIG Category at the old costs prevalent at the time of the original allotment along with simple interest payable @ 12% per annum with effect from the date of the original allotment till the date of institution of the present writ petition, i.e., till 20.1.2011. The respondent/DDA shall issue a fresh demand-cum- W.P.(C) No.400/2011 *Page 6 of 7* allotment letter to the petitioner within a period of two weeks from the date of holding the mini draw of lots and possession of the flat allotted to him, shall be handed over to the petitioner upon his completing all requisite formalities within a period of four weeks thereafter..

10. The petition is disposed of, along with the pending application, while leaving the parties to bear their own costs. (HIMA KOHLI) JANUARY 12, 2012 JUDGE sk W.P.(C) No.400/2011 *Page 7 of 7*

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