

Kamla Rani Vs. Dda

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Court : Delhi

Decided On : Apr-09-2012

Judge : The Honourable Ms. Justice Hima Kohli

Appeal No. : W.P. (C) 7830 of 2010 & C.M. No. 17620 of 2011

Appellant : Kamla Rani

Respondent : Dda

Judgement :

HIMA KOHLI,J

(Oral)

1. The present petition is filed by the petitioner praying inter alia for quashing the communication dated 27.10.2010 and 12.11.2010 issued by the respondent/DDA rejecting her application for conversion of leasehold rights into freehold in respect of property measuring 325 sq. mtrs. situated at Plot No.7, Pocket-I, Block-A, Sector-29, Rohini Residential Scheme, Rohini, Delhi and for further directions to respondent/DDA to convert the lease hold rights of the subject premises to free hold.

2. Though pleadings in the matter are complete, during the pendency of the present petition, the petitioner has filed an application registered as C.M. No.17620/2011 stating inter alia that the subject property was originally allotted to

one Sh. Dal Chand, who had expired on 27.05.1998. He was survived by his wife, 5 sons and 3 daughters. One of the legal heirs of Dal Chand, namely, Sh. Sri Niwas had pre-deceased Dal Chand. All the legal heirs of Late Sh. Dal Chand except the legal heirs of late Sh. Sri Niwas relinquished their undivided share in the said property in favour of one of the sons of Late Sh. Dal Chand, i.e, Sh. Harish Chand Sharma, by executing a registered Relinquishment Deed dated 29.09.2005. Thereafter, the respondent/DDA had mutated the plot in favour of Sh. Harish Chand Sharma and the legal heirs of Late Sh. Sri Niwas, namely, Smt. Kamlesh, Master Sagar Sharma and Ms.Monika Sharma vide letter dated 14.08.2006.

3. On 23.04.2007, the respondent/DDA also executed a perpetual lease deed in favour of Sh. Harish Chand Sharma, Smt. Kamlesh, Master Sagar Sharma and Ms. Monika Sharma. Subsequently, the aforesaid parties, namely, Sh. Harish Chand Sharma and Smt. Kamlesh for herself and on behalf of her minor children agreed to sell the subject plot to the petitioner by executing a set of documents including Agreement to Sell, GPA, SPA etc. which was registered in the office of Sub-Registrar on 23.04.2007.

4. Thereafter, on 31.03.2008, the petitioner had applied for conversion of the subject plot from leasehold to freehold. The said request was, however, rejected by the respondent/DDA on the ground that the property has been sold without protecting the rights of the minors and hence, the documents executed by the co-lessee were invalid.

5. Counsel for the petitioner states that during the pendency of the present proceedings, one of the minors, namely, Master Sagar Sharma who had attained majority on 26.02.2008, executed a Disclaimer Deed dated 10.02.2011 in favour of the petitioner, which was duly registered in the office of the Sub-Registrar. A copy of the said Disclaimer Deed has been enclosed with C.M.No.17620/2011. As regards the second minor child, Ms. Monika, it is stated that her mother, Smt. Kamlesh had approached the District Judge for permission to sell her share to the extent of 1/36th in the subject premises which was duly granted vide order dated 28.09.2011 passed by the District Judge, Rohini Court. A copy of the aforesaid

order is also enclosed with C.M.No.17620/2011.

6. In the light of the aforesaid subsequent events, counsel for the petitioner states that respondent/DDA be directed to re-consider the application of the petitioner for conversion of leasehold rights in the subject premises into freehold.

7. Counsel for the respondent/DDA states that respondent/DDA has no objection to re-consider the request of the petitioner in the light of the subsequent developments subject to the petitioner producing before the Director (Residential Land), DDA, a certified copy of order dated 28.09.2011 passed by the District Judge, Rohini Court as also the original of the Disclaimer Deed dated 10.02.2011 annexed with C.M.No.17620/2011.

8. In view of the aforesaid facts and circumstances, it is deemed appropriate to set aside the impugned letters dated 27.10.2010 and 12.11.2010 issued by the respondent/DDA and dispose of the present petition along with pending application with directions to the petitioner to appear before the Director (Residential Lands), DDA on 20.04.2012 at 3:00 p.m. along with relevant documents in support of his request for conversion of the subject plot from leasehold to freehold, as per law. The said request of the petitioner shall be re-considered by the aforesaid officer on the basis of the subsequent events and the documents that may be furnished by the petitioner and a fresh order shall be passed thereafter within a period of four weeks from the date of granting a hearing to the petitioner, under written intimation to her. In case the petitioner is aggrieved by the order that may be passed by the Competent Authority, she shall be entitled to seek her remedies as per law.

9. The petition is disposed of.

10. Dasti to the respondent/DDA.

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