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Ram Dev Shukla Vs. Dda

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Court : Delhi

Decided On : Feb-23-2012

Judge : The Honourable Ms. Justice Hima Kohli

Appeal No. : W.P.(C) 7635 of 2010 & CM 19842 of 2010

Appellant : Ram Dev Shukla

Respondent : Dda

Judgement :

HIMA KOHLI, J.

(***ORAL***)

1. The present petition is filed by the petitioner praying *inter alia* for restoration of the allotment of stall/unit No.81 located at Chhoti Sabzi Mandi, Tilak Marg, New Delhi, by setting aside the cancellation letter dated 10.10.2005.

2. It is averred in the writ petition that the petitioner is a hawker, who used to hawk in Nehru Place since the year 1980. On 07.04.1998, the petitioner was given an alternative hawking site at Tilak Marg, in lieu of his hawking site at Nehru Place on the basis of a draw of lots. On 30.11.1998, the respondent/DDA demanded a sum of `1,71,405/- from the petitioner for handing over possession of the aforesaid site. It is averred by the petitioner that in June 2004, an initial

amount of `43,000/- was deposited by him. On 06.05.2004, the respondent/DDA called upon the petitioner to pay an additional sum of `7,754/- as the balance amount of 25% of the initial amount paid by him. The petitioner paid the said amount in May 2004. On 16.06.2004, possession of the stall in question was handed over to the petitioner. However, the petitioner admittedly failed to deposit the remaining installments with the respondent/DDA in terms of the allotment. As a result, vide impugned letter dated 10.10.2005, his allotment was cancelled and he was called upon to hand over vacant physical possession of the stall (Annexure-K). In the aforesaid letter, the respondent/DDA had also informed the petitioner that two post dated cheques handed over by him, which were due on 01.11.2004 and 01.05.2005 did not get encashed. Counsel for the petitioner concedes that the aforesaid cheques were indeed returned by his banker on account of insufficient funds maintained in the account of the petitioner.

3. Thereafter, for the next five years, the petitioner did not take any steps to approach the respondent/DDA for restoration of the allotment of the stall in question. The only correspondence placed on record is a representation dated 03.05.2010 addressed by the petitioner to the Lt. Governor, Delhi, praying *inter alia* for restoration of the allotment of the stall in his favour. Counsel for the petitioner states that the said representation was made by the petitioner by relying upon an order passed in a writ petition filed by another vendor, who was relocated from Nehru Place to Chhoti Sabzi Mandi, Tilak Marg, New Delhi, and had approached the Court for condonation of delay beyond a period of 360 days in making the payment in terms of the allotment, registered as **W.P.(C) 7355/2007** entitled Nek Ram Gupta vs. DDA. A copy of the order dated 01.12.2008 passed in the aforesaid writ petition is placed on record as Annexure-M. In the aforesaid order, the Court had noted that the prayer made by the petitioner therein was for directions to the respondent to accept the balance amount of the demand notice and further that the petitioner therein had already deposited a sum of `50,000/- approximately towards part payment and had made a representation to the Commissioner (Lands) for condonation of delay in making the payment. Unlike the aforesaid case wherein no cancellation order had been passed, in the present case, due to repeated defaults on the

part of the petitioner, a cancellation order came to be passed by the respondent/DDA on 10.10.2005.

4. Be that as it may, having regard to the fact that counsel for the petitioner states that the petitioner is ready and willing to pay the balance outstanding amount payable by him in terms of the demand-cum-allotment letter issued by the respondent/DDA and then complete all requisite formalities, upon being so intimated by the respondent/DDA, the petitioner is granted one last opportunity to submit a representation to the Commissioner (Land) DDA for restoration of the allotment of the subject stall in his favour. In case the Commissioner (Lands), DDA is empowered to restore the said allotment in terms of the prevalent policy of the DDA, the said representation to be made by the petitioner shall be considered and disposed of by passing a speaking order. However, in case the Commissioner (Lands), DDA is not empowered to restore the said allotment, the said representation to be made by the petitioner shall be forwarded to the Chairman/Vice Chairman, DDA for consideration and disposal in accordance with the prevalent policy of the DDA. Thereafter, the decision taken shall be communicated in writing to the petitioner by either of the authorities, within a period of four weeks from the date of receipt of the said representation.

5. The present petition is disposed of in terms of the aforesaid order, alongwith the pending application, while leaving the parties to bear their own costs.

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