

Darshan Singh Bugga Vs. D.D.A.

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Court : Delhi

Decided On : Nov-22-2012

Judge : G. S. Sistani

Appellant : Darshan Singh Bugga

Respondent : D.D.A.

Judgement :

31. \$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 5698/2011
% Judgment dated 22.11.2012 DARSHAN SINGH BUGGA Petitioner Through
: Mr.R.K. Saini and Mr.Vikram Saini, Advs. versus D.D.A. Through :
Respondent Ms.Shobhana Takiar, Adv. CORAM: HON'BLE MR. JUSTICE
G.S.SISTANI G.S.SISTANI, J (ORAL) 1. Present petition has been filed by
petitioner under Article 226 of the Constitution of India seeking the following
prayers: a) A writ of Certiorari calling for the records of the case for perusal; b) A
writ of Certiorari quashing the action of the respondent/DDA in cancelling the
allotment of MIG flat No.157, Pocket D, Sector 18, Dwarka, New Delhi, made in
favour of the petitioner under NPRS, 1979 after non-delivery of allotment letter
sent at the residential address given at the time of registration, despite the fact that
the occupational address of the Petitioner was also given by the Petitioner at the
time of registration and was available on record, and then declining to restore the
allotment, being illegal, arbitrary, discriminatory, unjust and in violation of the
Rules, Regulations and policy and the principles of equity, natural justice and good
conscience; c) A writ of Mandamus directing the Respondent to allot an alternative

MIG flat in Dwarka in the same area/Sector by holding a mini draw and issue a demand letter to the petitioner in respect thereof, charging him for the same at the old cost.

2. Rule. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.

3. The necessary facts, to be noticed for disposal of the present writ petition, are that the petitioner registered himself with the respondent DDA under the New Pattern Registration Scheme, 1979, for allotment of a MIG flat on making payment of the registration deposit vide registration number 24962 (wrongly mentioned as 39710 in the writ petition). At the time of registration, the petitioner had informed DDA his residential address as House no DE-136, Tagore Garden, Delhi, where he was living at that time as a tenant. The petitioner had also informed the DDA with regard to his occupational address as Punjab and Sind Bank, Naraina Branch, New Delhi, where he was gainfully employed. In the year 1981 the petitioner shifted his residence from Delhi to Patiala, Punjab, however, he did not inform the DDA with regard to change of his residential address though the petitioner continued to work with the same Bank. In the year 1998 priority number of the petitioner matured. The name of the petitioner was included in the draw held on 15.9.1998 in which he was allotted a MIG flat bearing no.206, Pocket-A, Sector-13, Dwarka, New Delhi, (wrongly mentioned as No.157, Pocket D, Sector 18, Dwarka, New Delhi, in the writ petition). A demand-cum-allotment letter was sent by DDA at the petitioners residential address, available in the record of the DDA, however, the same was returned undelivered. The DDA did not send the demand-cum-allotment letter to the petitioner at his occupational address and, thus, on account of non-payment of the amount, the allotment made in favour of the petitioner was cancelled by the DDA.

4. As per the writ petition petitioner approached DDA in the month of May, 2011, to enquire about the status of his priority number. The petitioner also attended public hearing, where he learnt that an allotment had been made in his name, however, the same was cancelled on account of nonpayment of amount. Thereafter representations were made by petitioner to the DDA on 26.5.2011 and 28.6.2011,

copies of which have been filed on record, which were duly received by the DDA. Personal meetings with the officials of the DDA also did not yield any favourable result, which led to the filing of the present writ petition.

5. Learned counsel for the petitioner submits that grievance of the petitioner is that despite the occupational address available with the DDA, the DDA did not send the demand-cum-allotment letter to the petitioner and, thus, the case of the petitioner is fully covered under the Wrong Address policy of the DDA. Counsel further submits that the petitioner belongs to a middle class strata and he has been waiting for a number of years in the hope of gaining a property in Delhi. It is further contended that a consistent view has been taken by this Court in number of cases that where alternate addresses are available with the DDA, the DDA is duty bound to issue demand-cum-allotment letter to the applicant at all the addresses available in their record.

6. Present writ petition has been opposed by learned counsel for the DDA primarily on the ground of delay and laches. Counsel for the respondent has relied upon *Banda Development Authority, Banda, v. Moti Lal Agarwal and Others*, reported at (2011) 5 SCC 394, more particularly para 17, which reads as under:

17. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallized rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.

7. Learned counsel for the respondent submits that petitioner has been sleeping over his rights. Counsel further submits that petitioner has not given any explanation as to why since the year 1998 the petitioner did not enquire from the DDA or approach this Court earlier. Counsel next submits that New Pattern Registration Scheme, 1979, already stands closed by the DDA and due publication, in this regard, was also made by DDA in leading newspapers from

time to time.

8. I have heard learned counsel for the parties and considered their rival contentions. The basic facts of this case are not in dispute that the petitioner applied for allotment of a flat under New Pattern Registration Scheme, 1979, for allotment of a MIG flat. At the time of registration the petitioner had mentioned his residential address as DE-136, Tagore Garden, New Delhi, and he had also informed DDA with regard to his occupational address i.e. Punjab and Sind Bank, Naraina Branch, New Delhi. It is also not in dispute that after his transfer the petitioner had vacated his rental accommodation and he shifted to Patiala, Punjab, however, the petitioner did not inform the DDA with regard to change of his residential address. It is also not in dispute that demand-cum-allotment letter sent to the petitioner at his old residential address i.e. Tagore Garden was returned to the DDA undelivered and thereafter the demand-cumallotment letter was not sent at the occupational address of the petitioner.

9. In this case, at the time of registration under the New Pattern Registration Scheme, 1979, the petitioner had informed DDA with regard to his occupational address. The petitioner continued to work with the same Bank and in case the demand-cum-allotment letter was issued to the petitioner at his occupational address there is every likelihood that he would have received the same. There is no explanation forthcoming as to why DDA did not issue demand-cum-allotment letter at the occupational address, which was available in their record. This has resulted in delay for the petitioner to own a flat for which initial payment was made as far back as in the year 1979.

10. The DDA, which is a statutory body, has failed to perform its duty. The Court cannot lose track of the fact that a condition of eligibility for allotment of a flat under New Pattern Registration Scheme, 1979, is that the applicant should not own any other permanent residential property in Delhi, resultantly the petitioner would not have taken any step to acquire another property in Delhi. Another factor, which cannot be lost track of, is that allotment under this scheme were made over a span of more than two decades and thus the petitioner could well have been misled that his allotment would mature in time to come. DDA was well aware of the

various judgments passed by this Court from time to time that DDA is duty bound to inform an allottee with regard to the allotment at all the addresses available in their record.

11. While there is no quarrel to the proposition laid down by the Apex Court in the case of Banda Development Authority, Banda (Supra), learned counsel for DDA is unable to satisfy this Court as to how this judgment would be applicable to the facts of this case, when DDA has been responsible for delay in making the allotments of the flats for reasons, which may or may not be justifiable. There is also no explanation as to how the rights, in this case, of the parties stand settled or crystallized since there is no third party involved in the present case.

12. A consistent view, in this regard, has been taken by the High Court in various judgments including Sudesh Kapoor v. DDA, W.P.(C)8174/2006; Hirdayapal Singh v. DDA, W.P.(C) 15002/2006; and Prem Bhatnagar v. Delhi Development Authority W.P.(C) 592/2011. I am informed the judgments rendered by this Court in Mohinder Singh v. Delhi Development Authority, W.P.(C) 1096/2011, and Prem Bhatnagar v. Delhi Development Authority W.P.(C) 592/2011 have been upheld by Division Bench.

13. As far as the submission made by learned counsel for the DDA with regard to publication in the newspapers with regard to maturity of numbers and closure of scheme is concerned, this submission stands rejected by a judgment dated 28.1.2008 passed by this Court in the case of Usha Saikia v. DDA, W.P.(C) 266/2007.

14. At this stage, learned counsel for the petitioner submits that petitioner is willing to accept the flat at the cost of which prevailed in the year 2011, when he had approached this Court.

15. Accordingly, present petition is allowed. Rule is made absolute. To balance the equities the petitioner will be allotted a flat preferably in the same area, if available, at the cost of which prevailed in the year 2011, subject to petitioner completing all the formalities within two months from today.

16. Writ petition stands disposed of. G.S.SISTANI, J NOVEMBER 22 2012 msr

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