

Dalip Kumar Vs. D.D.A.

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Court : Delhi

Decided On : May-09-2013

Judge : V. K. Jain

Appellant : Dalip Kumar

Respondent : D.D.A.

Advocate for Def. : Mr. Kamal Nijhawan, Mr. Sumit Gaur

Advocate for Pet/Ap. : Mr. Ujjawal K. Jha, Mr. B.P. Aggarwal

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % + Date of Decision:

09. 05.2013 W.P.(C) 1835/2013 DALIP KUMAR Petitioner Through: Mr Ujjawal K. Jha and Mr B.P. Aggarwal, Advs. versus D.D.A. Respondent Through: Mr Kamal Nijhawan, Adv with Mr Sumit Gaur, Adv. for DDA CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) 1. The petitioner before this Court got himself registered for allotment of a residential flat from DDA under a scheme notified by it in the year 1989, particularly for the persons from Scheduled Castes/Scheduled Tribes categories. The petitioner claims to have intimated change of his address from A-400/8, Shastri Nagar, Delhi-110052 to A-340, Shastri Nagar, Delhi-110052 to DDA, vide letter dated 17.12.1992. He also claims to have sent a reminder dated 22.12.2000 regarding change of address. In the draw of lots held on 31.01.2003, one flat

bearing No. 1010, in Pocket-B, East of Loni Road was allotted to the petitioner. The demand-cum-allotment letter sent to the petitioner at the address A-400/8, Shastri Nagar, Delhi-110052 was received back unserved. The demand-cum-allotment letter was, however, collected personally by the petitioner from DDA office on 08.05.2003. Since the allotment at East of Loni Road was not acceptable to the petitioner, vide representation dated 09.06.2003, he intimated DDA that he was not willing to take possession of the MIG flat which had been allotted to him at East of Loni Road, since the persons dependent upon him were taking education near Janak Puri. He, therefore, sought reallocation near Vasant Kunj, New Delhi. This was followed by representations dated 12.05.2004, 25.10.2005, 02.12.2006, 18.01.2007, 17.12.2007, 11.02.2008, 05.03.2008, 01.04.2008, 21.05.2008, 08.09.2008 and several other representations. However, the petitioner did not make payment in terms of the demand cum allotment letter dated 21.04.2003 24.04.2003 though the last date stipulated in the said letter for payment was 22.10.2003. The allotment letter carried a clause for automatic cancellation of the allotment in case the payment was not made within the time stipulated in the said letter.

2. It would thus be seen that though the demand-cum-allotment letter though initially received back unserved, was duly collected by the petitioner from DDA office. On receipt of the said letter, the petitioner was required to deposit the amount demanded by DDA on or before the last date stipulated in this regard in the demand-cum-allotment letter. That having not been done, the clause providing for automatic cancellation of the allotment became operative and the allotment made to the petitioner at Loni Road got cancelled. The learned counsel for the petitioner has drawn my attention to para 1(c) of the counter-affidavit where DDA has stated that it had replied to the letter of the petitioner dated 09.06.2003 vide its letter dated 03.07.2003. His contention is that the aforesaid letter dated 03.07.2003 was never received by the petitioner. Even if it is presumed that the letter dated 03.07.2003, requesting the petitioner to comply with the terms and conditions of demand-cumallotment letter or to apply for cancellation of the allotment/refund of registration money was not received by the petitioner that would be of no consequence since the allotment made to him got automatically cancelled on his failure to deposit the amount demanded by DDA on or before the

last date stipulated in this regard. By written letter dated 03.07.2003, DDA was only responding to the representation made by the petitioner vide his letter dated 09.06.2003. By asking the petitioner to comply with the terms of the demand-cum-allotment letter or apply for cancellation of the registration money, DDA made it quite clear to the petitioner that his request for change of the allotment was not being acceded to. Since the letter dated 03.07.2003 does not by itself extend the time for making payment of the price of the flat, nothing really turns on the petitioner not receiving the said letter.

3. In my view, the petitioner instead of waiting for a decision on his representation for change of the location ought to have deposited the price of the flat which DDA had demanded vide demand-cum-allotment letter dated 21.04.2003/24.04.2003. He could still have persisted with his request for change of the location even after depositing the price of the flat in terms of the demand-cum-allotment letter issued to him by DDA. The petitioner, therefore, was clearly in default by not depositing the price of the flat within the time stipulated in this regard. No exception therefore can be taken to the act of DDA in refusing allotment to the petitioner on account of his failure to deposit the price of the flat within the time stipulated in the demand cum allotment letter.

4. The learned counsel for the respondent submits that the petitioner is also guilty of gross laches since the Allotment Letter was collected by him on 8 th May, 2003 and the first representation was made on 9th June, 2003, whereas this petition has been filed in the year 2013 i.e. after delay of about 10 years. However, since the petitioner has no case on merits, I need not go into the plea of laches raised by the learned counsel for the respondent. The petition is devoid of any merit and is hereby dismissed. V.K. JAIN, J MAY 09.2013 BG

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