

Krishana Devi Vs. D.D.a

Krishana Devi Vs. D.D.a

SooperKanoon Citation : sooperkanoon.com/955067

Court : Delhi

Decided On : Apr-22-2013

Judge : V. K. Jain

Appellant : Krishana Devi

Respondent : D.D.a

Advocate for Def. : Mr. Rakesh Mittal

Advocate for Pet/Ap. : Mr. S.K. Rungta, Ms. Pratiti Rungta, Mr. Prashant Singh

Judgement :

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

22. 04.2013 W.P.(C) 10522/2009 KRISHANA DEVI Petitioner Through: Mr S.K. Rungta, Sr. Adv with Ms Pratiti Rungta and Mr Prashant Singh, Advs versus D.D.A Respondent Through: Mr Rakesh Mittal, Adv for DDA CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) 1. The petitioner got herself registered with respondent-DDA for allotment of a residential flat under its Ambedkar Awas Yojna Scheme (AAYS). Vide letter bearing No. M312(2018)2001/AAY/DW dated 26-31/12/2001, the petitioner was allotted flat No. A-19 in Pkt-A, Sector-17, Dwarka. He was required to deposit a sum of Rs 400,493.35 on or before 30.01.2002. The aforesaid amount, along with the amount of interest, stipulated in the said letter could also be deposited on or before 31.03.2012. The allotment letter stipulated automatic cancellation of the

allotment in case the payment was not made by 31.03.2002. Admittedly, the petitioner made payment only of Rs 20,000/- being the confirmation money and did not deposit the balance amount in terms of the aforesaid allotment letter. As a result of which, the clause for automatic cancellation of the allotment came into operation and the allotment made to the petitioner stood cancelled.

2. Delhi Development Authority came out with a scheme for restoration of the allotments which had been cancelled by it. Initially, the policy in this regard was contained in circular not HAU-IX/Delay/98/DDA/10-N dated 31.03.1990. The policy, however, came to be revised vide office order dated 01.06.2000, which was further modified vide DDA resolution 29/2005. Initially, the delay beyond one year and six months could be condoned by the Vice-Chairman of DDA, but, in terms of the Resolution No. 46/2001, it was decided that delay up to three years could be condoned by the Vice-Chairman in deserving case though normally delay beyond one year was not to be allowed. It was further decided that restoration beyond three years could be permitted only in extremely deserving cases, by the Vice-Chairman, with the approval of the Chairman.

3. The petitioner admittedly applied for restoration of the allotment after expiry of three years from the date it got automatically cancelled in terms of the allotment letter issued to him. Therefore, his request for restoration could be considered only by the Vice-Chairman of DDA and in case he was satisfied that the case of the petitioner in this regard was an extremely deserving case, he could restore the allotment with the prior approval of the Chairman of the DDA.

4. During the course of arguments, the learned counsel for the respondent states, on instructions, that the request of the petitioner for restoration of the allotment was considered by Commissioner (Housing) and not by Vice-Chairman of DDA. The consideration of the request of the petitioner by Commissioner (Housing) would not be appropriate since he was not competent to take a decision either way, on the request made by him. The question as to whether the case of the petitioner was an extremely deserving case or not could be decided by none other than the Vice-Chairman.

5. This writ petition is, therefore, disposed of with a direction to the respondent to place the request of the petitioner (a copy of which is available on page 46 of the writ file), seeking restoration of the allotment before the Vice-Chairman of DDA, within a period of four weeks from today. The Vice-Chairman would pass an appropriate order on the aforesaid representation, within two weeks and shall communicate the decision to the petitioner thereafter. No order as to costs. Dasti. V.K. JAIN, J APRIL 22 2013 BG

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com