

Paras Ram Vs. Delhi Development Authority

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Court : Delhi

Decided On : Nov-16-2012

Judge : G. S. Sistani

Appellant : Paras Ram

Respondent : Delhi Development Authority

Judgement :

01. \$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 7871/2010
% Judgment dated 16.11.2012 PARAS RAM Petitioner Through : Mr.A.K. Chhabra, Adv. versus DELHI DEVELOPMENT AUTHORITY Respondent Through : Ms.Sangeeta Chandra, Adv. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI G.S.SISTANI, J (ORAL) CM 16839/2012.

1. This is an application filed by petitioner seeking restoration of the present writ petition, which was dismissed in default on 27.8.2012.
2. Notice. Ms.Sangeeta Chandra, Advocate, accepts notice on behalf of respondent DDA and submits that she has no objection if the present application is allowed.
3. Accordingly, for the reasons stated in the application and in view of the stand taken by counsel for the respondent, present application is allowed. Writ petition is restored to its original number and file.

4. Application stands disposed of. W.P.(C) 7871/2010 5. Present writ petition has been filed by petitioner seeking a direction to the respondent to allot an LIG flat against the registration No.2935 dated 5.5.1980 as per New Pattern Registration Scheme 1979 houses under the low income growth as the case of the petitioner is fully covered by the Wrong Address Policy of the respondent dated 25.2.2005.

6. Pleadings in this matter are complete. With the consent of counsel for the parties writ petition is set down for final hearing and disposal.

7. The necessary facts, to be noticed for disposal of the present writ petition, are that the petitioner made an application under SC/ST quota under New Pattern Registration Scheme, 1979, to the respondent DDA for allotment of an LIG flat. Registration fee in the sum of Rs.1200/- was deposited by the petitioner on 26.9.1979 with the respondent. As per the petition, petitioner was allotted a flat at Nand Nagri, New Delhi, however, a demand-cum-allotment letter was sent at the wrong address i.e. at A-43, Ashok Vihar, Phase-II, New Delhi, instead of A-43, Ashok Vihar, Phase III, New Delhi. Since the amounts were not deposited by the petitioner with the respondent, allotment made in favour of the petitioner at Nand Nagri was cancelled. Subsequently, the petitioner was allotted a flat at Rohini but the allotment letter was again sent by the DDA at the wrong address. The petitioner submitted a letter to the respondent on 28.12.1990 giving three options for a flat i.e. Shalimar Bagh, Pitam Pura and Rohini. Subsequently, the petitioner was allotted a flat in Jhilmil Colony, Delhi, and allotment letter was sent to the petitioner. The petitioner expressed his inability to deposit the amount as per the demand letter on account of the fact that his mother was suffering from Cancer and he had spent a huge amount on her treatment. Petitioner requested respondent for accepting payments in installments. The respondent acceded to the request of the petitioner and petitioner was permitted to make payment of 50% of the amount in a single installment and remaining 50% amount in monthly installments. It is the case of the petitioner that this letter was not received by him, which resulted in cancellation of the flat. Subsequently, the petitioner learnt that a flat in Kondli Gharoli, Delhi, was allotted in the name of the petitioner but the same was later on cancelled.

8. Learned counsel for the petitioner submits that no demand letter was received by the petitioner with respect to the flat allotted to him at Kondli Gharoli, however, the petitioner again deposited the cancellation charges of Rs.3207/- with the DDA. Counsel for the petitioner relies on a communication dated 28.5.2010, received from the DDA in response to a query raised under Right to Information Act, by which the petitioner was informed that an LIG flat bearing no.28-A, Sector 10, GRD, Dwarka, has been allotted to him on 15.10.1998. Counsel further submits that the petitioner has never received any communication from the respondent with respect to the flat allotted in favour of the petitioner at Dwarka. Counsel next submits that the petitioner received another communication dated 14.7.2010 whereby the petitioner was informed that as per office record the allotment made, with respect to flat allotted to him at Dwarka, was made against Registration No.37110 and priority No.2935 which stands in the name of Shri Praveen Kumar Gantotri. While as per the record his Registration number is 2935 and Priority number is 41. The mistake was regretted by the DDA.

9. Learned counsel for the petitioner contends that petitioner has all along been ready and willing to make the payments but the DDA issued two demand-cum-allotment letters at the wrong address for which the petitioner cannot be blamed and, thus, the petitioner would be covered under the Wrong Address Policy of the DDA.

10. Present petition has been opposed by learned counsel for the respondent DDA primarily on two grounds. Firstly the writ petition is barred by delay and laches as the cancellation of allotment of flat in favour of the petitioner was made in the year 1993, there is no explanation as to why the petitioner did not approach this Court or the DDA between 1993 and 2008 and further there is no explanation for the delay in approaching this Court at this stage. Secondly, the present case is not covered under the Wrong Address Policy of the DDA as after a demand-cum-allotment letter was sent at the wrong address by the respondent, the respondent immediately rectified its mistake and petitioner was given benefit of a fresh allotment in lieu of earlier allotments and, thus, petitioner cannot derive any benefit of the Wrong Address Policy of the DDA. To sum up her submission, counsel for the DDA has drawn the attention of the Court to para 6 of the counter affidavit,

which has been filed on record. Para 6 of the counter affidavit reads as under:

6. That the brief facts of the case are set out hereunder: a) That petitioner got himself registered for allotment of an LIG flat vide registration No.2935, under NPRS 1979 b) A flat No.421 Pkt 6, Sector-II, Type-C, Rohini, was allotted to him on 31.03.1989. However, the said allotment was cancelled for non payment. The petitioner represented on 21.08.1990 that since, the demand letter was sent at A-43, Phase-II, Ashok Vihar instead of A-43, Phase-III, Ashok Vihar, the same was not received by him and that he had received the demand letter only on 23.07.1990. A copy of the letter dated 21.08.1990 is annexed hereto as ANNEXURE R-1. c) In the meantime, he was further allotted an LIG flat No.44-F, Second floor, Type-2, Pkt. A-1, Group 8 & 9, Kondli Gharoli in the draw held on 14.03.1990. The Demand cum allotment letter was issued to the petitioner on 24.04.90-03.05.90. d) Extension of time was granted to the petitioner on 16.11.1990 and another reminder was issued on 05.12.1990 (at the correct address) to deposit the required amount. A copy each of the letters dated 16.11.1990 and 05.12.1990 are annexed hereto as ANNEXURE R-2 (Colly). e) In response to letter dated 16.11.1990 the petitioner wrote letter dated 28.12.1990 (annexure D at page 17 of the petition) received in DDA on 03.01.1991, seeking allotment in Shalimar Bagh, Pitampura, Rohini on the ground that the demand cum allotment letter was not received by him as it was not sent at the correct address. f) After considering his representation dated 03.01.1991, the DDA vide letter dated 13.02.1992 (sent at the correct address and annexed as annexure F at page

21) informed the petitioner that it had been decided that his name would be considered in the next draw subject to deposit of cancellation charges. The cancellation charges were deposited by the petitioner on 13.02.1992. g) Thereafter, another allotment of LIG flat No.215A, Ground Floor, Phase-II, Type-3, Jhilmil was made to the petitioner in the draw held on 28.12.92 on Cash Down basis. The demand cum allotment letter (annexed as annexure E at page

18) was sent to the petitioner at the correct address with block dated 15.02.1993-17.02.1993 and was duly received by him. h) Vide letter dated 13.05.93, the petitioner sought a change of mode of payment from Cash Down to Hire Purchase

with respect to the said flat. A copy of the letter dated 13.05.1993 is annexed hereto as ANNEXURE R-3. i) However, the request of the petitioner was rejected by the Competent Authority and intimation in this regard was sent to the petitioner vide letter dated 14.05.93. Thereafter, the petitioner had applied for extension of time to make payment which was allowed by DDA vide letter dated 25.05.1993. Time was extended upto 01.07.1993. A copy each of the said letters dated 14.05.1993 and 28.05.1993 are annexed hereto as ANNEXURE R-4 (Colly). j) Since no payment was deposited by the petitioner, a Show Cause Notice was issued to him on 23.08.93 but no response was received. A copy of the said Show Cause Notice is annexed hereto as ANNEXURE R-5. k) As no reply was received from the petitioner, the allotment of flat No.215A, Ground Floor, Phase-II, Type3, Jhilmil was cancelled and the cancellation letter was sent to the petitioner on 14.12.93. A copy of the letter dated 14.12.1993 is annexed hereto as ANNEXURE R6.

11. Learned counsel for the DDA submits that letter dated 20.5.2010, sought to be relied upon by counsel for the petitioner, was issued by DDA to the petitioner inadvertently and immediately after the issuance of the aforesaid letter DDA withdrew the letter dated 14.7.2010, a copy of which has been annexed by the petitioner to the present writ petition.

12. I have heard learned counsel for the parties and also considered their rival contentions. It is not in dispute that the petitioner made an application to the respondent under New Pattern Registration Scheme, 1979, for allotment of an LIG flat. A flat was allotted to the petitioner at Rohini in the year 1989, however, demand-cum-allotment letter was sent at the wrong address due to which allotment made in favour of the petitioner was cancelled. Another allotment was made in favour of the petitioner at Kondli Gharoli in a draw held on 14.3.1990. With respect to this allotment, demand-cum-allotment letter was sent at the correct address and duly received by the petitioner, which is evident from the fact that petitioner sought extension of time which was granted to the petitioner on 16.11.1990. Since the petitioner did not make the payment even during the extended period of time, DDA issued another reminder on 5.12.1990 to the petitioner at the correct address. Subsequently, the petitioner in response to the

letter dated 16.11.1990 wrote a letter to the DDA on 28.12.1990 seeking allotment of a flat either in Shalimar Bagh or Pitam Pura or Rohini. Representation of the petitioner was considered by the DDA. In response to the representation dated 3.1.1991 by petitioner to the DDA, the DDA issued a letter dated 13.2.1992 to the petitioner informing the petitioner that DDA has decided that the name of the petitioner would be considered in the next draw subject to petitioners depositing cancellation charges, which stands deposited by the petitioner. Another allotment was made in favour of the petitioner being LIG Flat No.215A, Ground Floor, Phase II, Type III, Jhilmil, in a draw held on 28.12.1993 on cash down basis. A demand-cum-allotment letter with the block dates of 15.2.1993 - 17.2.1993 was sent by the DDA at the correct address of the petitioner. This demand-cum-allotment letter was duly received by the petitioner, which is evident from the fact that vide letter dated 13.5.1993 petitioner sought a change of mode of payment from cash down to hire purchase. This request of the petitioner was rejected by the DDA. An intimation in this regard was sent by the DDA to the petitioner vide letter dated 14.5.1993. Thereafter the petitioner applied to DDA for extension of time to make the payment which was allowed by the DDA vide letter dated 25.5.1993 and time was extended upto 1.7.1993. Petitioner did not make the payment even despite extension of time having been granted. DDA thereafter issued a show cause notice to the petitioner on 23.8.1993, however, no response was received from the petitioner. The flat allotted to the petitioner was cancelled on 14.12.1993.

13. Having regard to the fact that the petitioner did not approach DDA from 1993 to 2008, the present petition is barred by delay and laches and even on the merits there is no explanation as to why the petitioner did not make the payment to the DDA despite extension of time upto 1.7.1993, the DDA cannot be faulted. The petitioner has not been able to make out any ground for exercising extra ordinary jurisdiction of this Court. Accordingly, there is no merit in the present writ petition and the same is dismissed. G.S.SISTANI, J NOVEMBER 16 2012 msr