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Devender Vs. Land and Building Department and ors

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Court : Delhi

Decided On : Apr-29-2013

Judge : V. K. Jain

Appellant : Devender

Respondent : Land and Building Department and ors

Advocate for Pet/Ap. : Mr. N.S. Dalal, Mr. Amit Rana, Mr. D.P. Singh, Mr. Sanjeev Sahay, Ms. Swati Verma, Mr. Rajiv Bansal

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

29. 04.2013 W.P.(C) 2710/2013 UMED SINGH ..... Petitioner Through: Mr N.S. Dalal, Mr Amit Rana, Mr D.P. Singh, Advs. versus LAND & BUILDING DEPARTMENT & ORS. ..... Respondent Through: Mr Sanjeev Sahay, Adv. for LAC/L&B Ms. Swati Verma, Advs. for Mr Rajiv Bansal, Adv. DDA + W.P.(C) 2128/2013 PREM SINGH ..... Petitioner Through: Mr N.S. Dalal, Mr Amit Rana, Mr D.P. Singh, Advs. versus LAND & BUILDING DEPARTMENT & ORS. ..... Respondent Through: Mr Sanjeev Sahay, Adv. for LAC/L&B Ms. Swati Verma, Advs. for Mr Rajiv Bansal, Adv. DDA + W.P.(C) 2721/2013 TARA CHAND ..... Petitioner Through: Mr N.S. Dalal, Mr Amit Rana, Mr D.P. Singh, Advs. versus LAND & BUILDING DEPARTMENT & ORS. ..... Respondent Through: W.P.(C)No.2710/2013 Ms. Swati Verma, Advs. for Mr Rajiv Bansal, Adv. DDA + W.P.(C) 2126/2013 DEVENDER ..... Petitioner Through: Mr N.S. Dalal, Mr Amit

Rana, Mr D.P. Singh, Advs. versus LAND & BUILDING DEPARTMENT & ORS. ..... Respondent Through: Mr Sanjeev Sahay, Adv. for LAC/L&B Ms. Swati Verma, Advs. for Mr Rajiv Bansal, Adv. DDA + W.P.(C) 2113/2013 SUBHASH CHAND Through: ..... Petitioner Mr N.S. Dalal, Mr Amit Rana, Mr D.P. Singh, Advs. versus LAND & BUILDING DEPARTMENT & ORS. ..... Respondent Through: Mr Sanjeev Sahay, Adv. for LAC/L&B Ms. Swati Verma, Advs. for Mr Rajiv Bansal, Adv. DDA CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) The land of the petitioners in W.P(C) No. 2113/2013, W.P(C) No.2126/2013 and W.P(C) No. 2128/2013 and the father of the petitioner in W.P.(C) No.2710/2013 & 2721/2013 before this Court having been acquired by the Government for planned development of Delhi, they applied for allotment of alternative plots as per the scheme notified by the government on 2.5.1961, for Large Scale Acquisition Development and Disposal of Land in Delhi. The petitioners in W.P(C) No.2128/2013, W.P(C) No.2126/2013 and 2113/2013 claim to have applied for allotment of alternative plot in the year 1996, the petitioner in W.P(C) No. 2710/2013 claims to have applied for such allotment in the year 1988, the petitioner in W.P(C) No.2721/2013 claims to have applied for alternative plot in the year 1989. According to the petitioner in W.P(C) No. 2721/2013, he had also received a letter dated 8.10.2012 from Land & Building Department asking for certain documents and had submitted those documents on 21.02.2013. The petitioner in W.P(C) No.2128/2013 claims to have received a letter dated 22.6.2012 asking him to give three photographs and an affidavit which he claims to have submitted on 18.7.2012 and 14.8.2012 respectively. He also received another letter dated 25.2.2013 from Land & Building Department and responded to the said letter on 6.3.2013. The petitioner in W.P(C) No.2126/2013 claims to have received a letter from the Land & Building Department on 23.1.2013 asking for certain information and according to him the said information was duly submitted by him on 27.2.2013. The petitioner in W.P(C) No.2113/2013 claims to have received a letter dated 28.01.2013 and according to him, he responded to the said letter on 27.02.2013. No such communication from the Land & Building Department has been claimed by the petitioner in W.P(C) No.2710/2013.

2. The grievance of the petitioner is that no recommendation has so far been made by the Land & Building Department of the Government of NCT of Delhi so far for allotment of alternative plots to them. The petitioners have therefore filed these writ petitions claiming the following reliefs: (i) issue a writ of mandamus or any other appropriate writ, order or direction W.P.(C)No.2710/2013 thereby directing the respondents treat the recommendation having been made by the respondent no.1 by applying the principle in Sulekh Maliks case, or in the alternative, directing the respondent no.1 to make recommendation within a time bound period of one or two months and further directing the respondent no.3 to allot the alternative plot within two months thereafter; (ii) issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondents to pay compensation for the delay caused in making recommendation and allotting the plot.

3. A similar petition being W.P(C) No.2118/2013 came up for consideration before this Court and on 22.4.2013. The turn of the petitioner in that case, for allotment of alternative plot having matured, his application was under scrutiny when the writ petition came up for hearing. The petitioner in that case, considering the abnormal delay on the part of the respondent in making recommendation for allotment of alternative plot to him, wanted the Court to straightaway direct allotment within a time-bound manner instead of directing decision on his application pending with the government. In this regard, the petitioner in that case relied upon the decision of this Court in W.P(C) No.4043/2008 decided on 8.4.2009. The petitioner in this case is also relying upon the very same decision of this Court. Rejecting the prayer to direct straightaway allotment of alternative plot to the petitioner, this Court, inter alia, observed and held as under:

4. I have carefully examined the judgment relied upon by the learned counsel for the petitioner. In the above referred case, the father of the petitioner died intestate on 30.1.1994 leaving behind three sons and six daughters. The petitioner before this Court claimed that all other legal heirs had released their respective shares in the alternative plot, in his favour by virtue of a registered relinquishment deed dated 6.6.2001. In its counter affidavit, Government of NCT of Delhi stated that one Mr. Raj Singh Malik, brother of the petitioner, had addressed a protest letter

dated 29.8.2002 to them alleging therein that the relinquishment deed submitted by the petitioner was a forged and fabricated document and that he had not relinquished his share in the alternative plot in favour of the petitioner. It was further stated in the counter affidavit that it was for that reason that the respondent could not proceed further in the matter. It would thus be seen that the only ground given by the Government of NCT of Delhi in its counter affidavit, for not processing the application of the petitioner for allotment of alternative plot was the protest letter sent to them by his brother Raj Singh Malik. In the above referred case, considering the objections made by Mr. Raj Singh Malik, a concession was given by none other than the counsel for the petitioner, that the allotment could be made to all the legal representatives of late Shri Mohan Lal Malik, father of the petitioner. It was in these circumstances that the Court directed allotment of plot to all the legal heirs of late Shri Mohan Lal Malik. On the other hand, in the case before this Court, the contention of the learned counsel for the respondent - Government of NCT of Delhi is that a large number of applications have been received by them for making recommendations to DDA for allotment of alternative plot to the persons whose lands have been acquired for planned development of Delhi and infrastructure available with them being limited, it has not been possible for them to consider all such applications made so far.

5. The learned counsel for the respondent- Government of NCT of Delhi stated that all such applications pending with them are being taken by them for consideration strictly in the order of seniority, as per the date of receipt of such applications by them and the status of those applications has been made available on their website. Two lists have been prepared one in respect of applications received till the year 2000 and the other in respect of the applications received after the year 2000. She further states that for the present, they are considering only those applications which they had received upto the year 2000 and which have been included in the first list prepared for this purpose.

6. It is also not in dispute that there are a number of persons who have been recommended allotment of alternative plot by Government of NCT of Delhi, but have not been made allotment so far by the DDA. The persons who submitted the application earlier than the petitioner and in whose cases recommendations have

already been made to DDA, must necessarily be given precedence over the petitioner, who submitted the application later and in whose case no recommendation has so far been made for allotment of alternative plot. There is no way the petitioner can be given precedence in allotment over those who have already been recommended and are waiting allotment by DDA.N preference over those people can be granted to the petitioner merely because they are not before the Court, whereas the petitioner has decided to approach the Court.

3. Following the decision dated 22.4.2013 in W.P(C) No.2118/2013, these writ petitions are disposed of with the directions that wherever the case of the petitioners has already matured for consideration but the scrutiny of the application has not been completed, the same shall be carried out and completed within a period of eight weeks from today and the objections, if any, shall be communicated to the concerned petitioner within four weeks thereafter. Deficiency, if any, shall be removed by the concerned petitioner within four weeks of receipt of communication in this regard from the respondent. Appropriate decision on the application of the petitioner for allotment of alternative plot shall be taken within eight weeks of the petitioner removing the further deficiencies, if any, and will thereafter be communicated to him by the respondent - Government of NCT of Delhi. In cases where the applications of the petitioners have not so far been matured for consideration, scrutiny of the applications would be taken up only when such applications mature for consideration at its turn. Thereafter, the scrutiny will be completed within a period of eight weeks from the date it is taken up and the objections, if any, shall be communicated to the concerned petitioner within eight weeks thereafter. Deficiency, if any, shall be removed by the petitioner within four weeks of receipt of communication in this regard from the respondent. Appropriate decision on the application of the petitioner for allotment of alternative plot shall be taken within four weeks of the petitioner removing the deficiencies, if any, and will thereafter be communicated to him by the respondent - Government of NCT of Delhi. All the writ petitions stand disposed of in terms of this order. V.K. JAIN, J APRIL 29 2013/rd

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