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Usha Dixit Vs. Delhi Development Authority

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Court : Delhi

Decided On : May-29-2013

Judge : V. K. Jain

Appellant : Usha Dixit

Respondent : Delhi Development Authority

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

29. 05.2013 W.P.(C) 5645/2010 + USHA DIXIT ..... Petitioner Through Mr. Ashok Chaitanya, Advocate. versus DELHI DEVELOPMENT AUTHORITY Through ..... Respondent Mr. M.K. Singh, Advocate for DDA. CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) The husband of the petitioner, namely, Late Sh. Praksh Dixit got himself registered for allotment of a plot from DDA under its Rohini Residential Scheme. Since he had got himself registered for allotment of a plot under MIG category, his income as per the eligibility condition should have been between Rs.12,000 to Rs.24,000/- per annum in the relevant year, i.e., 1980-81. Along with the registration application, he submitted a certificate issued by Jain Sammopasak Senior Secondary School certifying that his total salary, excluding HR Allowance during 1980-81 which was the relevant period for the purpose of determination of income was Rs.11201.60. The said certificate did not disclose as to what was the house rent allowance if any being paid to Late Sh. Prakash Dixit. Thus, calculated

in terms of the aforesaid certificate, the husband of the petitioner did not have income between Rs.12,000/- to Rs.24,000/- per annum in the relevant year.

2. When DDA found during scrutiny of documents that late Sh. Prakash Dixit was not eligible for registration under MIG Category, the said registration was cancelled vide letter dated 18.07.1983 followed by letters dated 11.09.1985 and 08.04.1986 and he was informed that if he so wanted, he could be considered for allotment under one category below i.e. LIG Plot. Vide letter dated 18.06.1986 received in DDA Office on 19.06.1986 late Sh. Prakash Dixit, acknowledged a letter received from DDA asking him to confirm his income, submitted an affidavit stating therein that his total income during the period 1980-81 was Rs.12,201. It appears that despite the aforesaid affidavit submitted by late Sh. Prakash Dixit, DDA did not restore the registration and vide letter dated 12.12.1986, asked him to submit the original FDR so that the earnest money could be refunded to him.

3. Since the cancellation of the registration was not updated in the record of DDA, a plot of land came to be allotted to late Sh. Praksh Dixit on 05.01.2004. However, since it came to be discovered before issuing the demand-cumallotment letter that the registration had already been cancelled, no demandcum-allotment letter was issued to him and he was asked to submit documents for refund of the registration money. The letter sent to him for this purpose were received back since he was not available at the address which he had submitted to the DDA at the time of registration. According to the petitioner, vide letter dated 21.10.2004, she requested the DDA not to move for cancellation of the plot allotted to her. In this letter she referred to an earlier letter dated 08.06.1998 intimating change of address to DDA. However, there is no proof of the said letter dated 8.6.1998 having been received by DDA. Though there is a reference to this letter being on record in the Minutes of the meeting held in DDA office on 8.5.2013 but, that was so because a copy of the said letter was annexed to the later communication sent by the petitioner to DDA.

4. The grievance of the petitioner is that though the income of her husband being more than Rs.12,000/- per annum in the year 1980-81 he was eligible for allotment of a plot under the Rohini Residential Scheme, the said registration and

subsequent allotment on 5.1.2004 was cancelled by DDA without any justification.

5. With respect to income of late Sh. Praksh Dixit, the petitioner has placed on record a copy of the letter dated 29.05.2006 issued by Jain Sammopasak Sr. Secondary School, Sardar Bazar certifying that late Sh. Praksh Dixit was paid salary and allowances as detailed in the said letter for the period from 16.10.1979 to February, 1981. The certificate shows payment of Rs.16156.98 to late Sh. Prakash Dixit towards salary and allowances for the period from 16.10.1979 to February, 1981 and this amount included Rs 12180.28/- towards arrears of salary for the period from 16.10.1979 to 31.10.1980. The contention of the counsel for the petitioner is that if the salary is calculated in terms of the certificate dated 28th May, 2006, the income of late Sh. Prakash Dixit would come to more than Rs.12,000/- for the year 1980-81. This is also the contention of the petitioner that under the scheme the income of the spouse of the registrant was also to be clubbed with the income of the registrant and the petitioner had income of Rs.9507.17 from Syndicate Bank, during the period from April, 1980 to March, 1981. In fact, even if this amount alone is clubbed with the income shown in the certificate dated 24.04.1981, the total income would come to more than Rs.12,000/- per year.

6. Since, the genuineness or otherwise of the documents submitted by the petitioner cannot be verified in a writ petition, it would only be appropriate that DDA examines the case of the petitioner afresh in the light of the documents submitted by her as a proof of her own income as well as the income of her husband during the year 1980-81, after such verification as may be deemed necessary and then passes an appropriate order with respect to the eligibility of the husband of the petitioner for allotment of a plot under Rohini Residential Scheme of DDA.

7. Accordingly, the writ petition is disposed of with a direction to DDA to examine afresh in the light of this order, as to whether late Sh. Prakash Dixit was eligible for allotment of an MIG Plot under Rohini Residential Scheme of DDA or not. A speaking order shall be passed by DDA in this regard within eight weeks from today. If the petitioner is aggrieved from the order passed by DDA in this regard, it

shall be open to her to challenge such order in appropriate independent proceedings. No order as to Costs. Dasti. V.K. JAIN, J MAY 29.2013 pkv

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