

Sudarshan Sharma Vs. Dda

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Court : Delhi

Decided On : Apr-30-2013

Judge : V. K. Jain

Appellant : Sudarshan Sharma

Respondent : Dda

Advocate for Def. : Mr. S.C. Jha

Advocate for Pet/Ap. : Mr. Sanjiv Kakra, Mr. Irfan Ahmed

Judgement :

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

30. 04.2013 W.P.(C) 2005/2010 SUDARSHAN SHARMA Through: Petitioner Mr. Sanjiv Kakra and Mr. Irfan Ahmed, Adv. versus DDA Respondent Through: Mr. S.C. Jha, Adv. for DDA CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) Late Shri R.K. Sharma, husband of the petitioner got himself registered with DDA under its New Pattern Registration Scheme, 1979 (NPRS-79) for allotment of a flat from the respondent-DDA. Shri R.K. Sharma expired on 27.7.1997. On this death, the petitioner applied for mutation of the registration in her name. After taking requisite documents from the petitioner, the DDA transferred the registration in her name, vide letter dated 13.11.2001 issued to her by the Senior Assistant Director, MIG (H), Vikas Sadan.

2. In a draw of lot held on 30.7.2003, an MIG flat was allotted by the DDA and a demand letter bearing block dated 26.9.2003-6.10.2003 is stated to have been sent to the petitioner. The case of DDA is that the aforesaid letter was sent by registered post. The case of the petitioner on the other hand is that the aforesaid letter was never received by her.

3. Since the petitioner did not get any allotment from DDA, she represented to DDA in this regard and ultimately vide allotment letter bearing block date 26.9.2003-6.10.2003, the petitioner was allotted an MIG flat in Pocket-7, Sector 23, Rohini, New Delhi at the cost of Rs.18,64,169.50. The grievance of the petitioner is that though her turn matured for allotment way back in the year 2003, the DDA is asking her to pay the costs as prevalent in September-October, 2009, which is an unfair and unreasonable demand.

4. The main question which arises for consideration in this case is as to whether the demand-cum-allotment letter bearing the block date 26.9.2003-6.10.2003 was actually served upon the petitioner or not. A perusal of the aforesaid letter which is available in the file of DDA brought to the Court would show that the allotment was in the name of late Shri R.K. Sharma, deceased husband of the petitioner. The name of Shri R.K. Sharma has been scored off by pen and the name of the petitioner Smt. Sudershan Sharma has been written by hand, on the said letter. The question which then arises is, as to whether this exercise was undertaken before or after dispatch of the aforesaid letter and whether the said letter was sent to a correct person at the correct address. The respondent-DDA has placed on record a copy of the dispatch register which shows that the aforesaid demand-cum-allotment letter was sent to one Mr. Om Prakash at the address F-5/8, Krishana Nagar, Delhi. The record of DDA also shows that vide letter dated 10.8.2007, Deputy Director MIG(H) of DDA, requested Postmaster, Sarojini Nagar, New Delhi asking him to inform as to whether the aforesaid demand-cum-allotment letter had been delivered to Mr. Om Prakash or not. This was followed by a reminder dated 10.9.2007 making a similar request to the Postmaster Office, Sarojini Nagar, New Delhi. Vide communication dated 29.8.2007, the concerned Postmaster informed DDA that the case was time-barred meaning thereby that record in this regard was not available with the Postmaster. It appears from a

perusal of the dispatch documents and the aforesaid letters sent by Deputy Director of DDA to the Postmaster that the demand-cum-allotment letter was dispatched to one Mr. Om Prakash and not to the petitioner Smt. Sudarshan Sharma. Since the demand-cum-allotment letter, whether in the name of Shri R.K. Sharma or in the name of the petitioner Smt. Sudarshan Sharma was addressed to Mr. Om Prakash, that being the name of the addressee written on the envelop in which the demand letter was sent, there is no way the said letter could have been received by the petitioner.

5. The learned counsel for the DDA points out that in the memo of parties of this case, the petitioner has given her address as c/o Shri O.P. Sharma, F-5/8, Krishan Nagar, New Delhi. This, to my mind, would be of no significance since the addressee was Mr. Om Prakash and not the petitioner Smt. Sudarshan Sharma. If DDA addresses, a demand-cum-allotment letter to a wrong person and the addressee denies having received such a demand-cum-allotment letter, the fault would lie on the part of the DDA unless it is shown by DDA that the demand-cum-allotment letter was actually delivered to some other person who received it for and on behalf of the allottee. There is no evidence of Shri Om Prakash, to whom the demand-cum-allotment letter was addressed by DDA, having received such a letter on behalf of the petitioner Smt. Sudarshan Sharma. Moreover, while mutuating the registration in the name of the petitioner, the only address given was Smt. Sudarshan Sharma, F-5/8, Krishana Nagar, Shahdara, Delhi. That unfortunately is not the address given on the envelop in which the demand-cum-allotment was sent by the DDA in the year 2003 since it is addressed to Shri Om Prakash and not Smt. Sudarshan Sharma and Shahdara does not form part of the address given on the envelope. Admittedly, Delhi has more than one colonies in the name of Krishna Nagar, one being in South Delhi and the other being in East Delhi (Shahdara), and, therefore, the possibility of the letter having been sent to Krishna Nagar in South Delhi, instead of sending it to Krishna Nagar, East Delhi, cannot be ruled out.

6. Be that as it may, the fact remains that the demand-cum-allotment letter was not addressed to the petitioner and it did not bear her complete address as noted in the letter of DDA transferring registration in her name. In these circumstances,

when no fault to the petitioner can be attributed, DDA, in my view, was not justified in charging the price of the flat as prevalent in September-October, 2009 from the petitioner, who is a widow lady.

7. The learned counsel for the petitioner states on instructions from the son of the petitioner, who is present in the Court, that he is ready to pay appropriate interest on the price of the flat as prevalent in September-October, 2003 which can be verified from demand-cum-allotment letter issued at that time.

8. In view of above submissions made by the learned counsel for the petitioner, the demand-cum-allotment letter bearing block date 26.9.2003/6.10.2003 is hereby quashed and DDA is directed to issue fresh demand letter to the petitioner taking the costs of the flat to be Rs.9,35,240/-, which is the price charged vide allotment letter dated 26.09.2003/06.10.2003 along with interest calculated @ 12% per annum. While calculating the interest, DDA would take into account the payment made by the petitioner from time to time and a revised demand letter in terms of this order shall be issued by the DDA within eight weeks from today. The petition stands disposed of in terms of this order. There shall be no orders as to costs. V.K. JAIN, J APRIL 30 2013 rd

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