

Raj Kumar Saini Vs. Dda and anr

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Court : Delhi

Decided On : Apr-18-2013

Judge : V. K. Jain

Appellant : Raj Kumar Saini

Respondent : Dda and anr

Advocate for Def. : Mr. P.K. Mittal

Advocate for Pet/Ap. : Mr. Manoj Singh

Judgement :

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

18. 04.2013 W.P.(C) 8211/2011 RAJ KUMAR SAINI Through: Mr Manoj Singh, Adv. Petitioner versus DDA AND ANR Respondents Through: Mr P.K. Mittal, Adv. CORAM: HON'BLE MR. JUSTICE V.K.JAIN JUDGMENT V.K.JAIN, J.

(ORAL) 1. The petitioner before this Court got himself registered with the respondent- DDA for allotment of a plot of land under its Rohini Residential Scheme, 1981. At the time of registration, the petitioner was residing at X/3730, Shanti Mohalla, Raghubirpura-II, Gandhi Nagar, Delhi-110034. The petitioner shifted from that place to A-26, Rama Road, Adarsh Nagar, Delhi and intimated the change of address to DDA vide letters dated 30.01.1987 and 03.06.1987. To this extent, there is no dispute between the parties.

2. The petitioner shifted to Canada and he claims to have intimated DDA vide letter dated 20.10.2003 that he was temporarily living in Canada at the address disclosed in the said letter. WP(C) No. 8211/2011 received by it from the petitioner. No proof has been placed on record by the petitioner to show that the aforesaid letter was actually served by him on DDA either by post or personally in the office of DDA. Therefore, I am not inclined to accept the contention that the petitioner had intimated the change of address to DDA on 12.01.2003.

3. Vide letter dated 01.09.2004, the petitioner intimated his Canada address to the respondent-DDA and it is an admitted position that the aforesaid letter was received by DDA on 13.09.2004.

4. On the turn of the petitioner maturing, a residential plot was allotted to him by DDA in the draw of lots held on 05.01.2004. The allotment-cum-demand letter was then sent by DDA to the petitioner on 27.01.2004 at the Rama Road address, which he had intimated to DDA. When the said letter was received back unserved, the allotment letter was sent at the initial address, which the petitioner had disclosed in the application form. Since the letter could not be served even on that address, a public notice was given by DDA in the newspapers on 14.07.2004, requesting such allottees to collect the demand-cum-allotment letter from DDA. The learned counsel appearing for DDA states that this was a general notice given by DDA in newspaper and was not a notice, particularly for the petitioner. Since the demand-cum-allotment letter was not collected even after the public notice dated 14.07.2004, the allotment made to the petitioner was cancelled on 19.01.2005, as stated in the counter-affidavit of DDA.

5. It would thus be seen that the Canada address of the petitioner was available with the DDA on 13.09.2004, more than four months before the allotment made to him came to be cancelled on 19.01.2005. In my view, once DDA had received intimation of change of address and the changed address was available, it should have made an attempt to send the demand letter at that address before cancelling the allotment. Had the letter intimating the change of address been received after cancellation of the allotment, the position would have been different, but, when the changed address was available before the matter was taken up for cancellation of

allotment, DDA ought to have made an attempt to serve the allotment letter at that address instead of resorting to cancellation of the allotment. In these circumstances, the action of DDA in cancelling the allotment on 19.01.2005, despite having changed address of the petitioner available to it on 13.09.2004 cannot be sustained.

6. The learned counsel for the petitioner states, on instructions, that the petitioner is ready and willing to pay such price of the plot as was prevailing on the date of filing of the writ petition, i.e., 21.11.2011. The learned counsel for the respondent states that since the petitioner had already been shifted to Canada at the time the allotment came to be made, he was no more eligible for allotment of plot under the Rohini Residential Scheme. This issue, being beyond the scope of this petition, cannot be examined in these proceedings. In these circumstances, the writ petition is disposed of with the direction to DDA to allot an appropriate plot by holding a mini draw in this regard, within four weeks at the price prevailing on 21.11.2011, provided the petitioner is found otherwise eligible for allotment of a plot under the Rohini Residential Scheme of DDA. V.K. JAIN, J APRIL 18 2013 BG

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