

Jaswant Singh Vs. Delhi Development Authority and anr

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Court : Delhi

Decided On : Aug-07-2013

Judge : Manmohan

Appellant : Jaswant Singh

Respondent : Delhi Development Authority and anr

Advocate for Def. : Mr. Sushil Dutt Salwan

Advocate for Pet/Ap. : Mr. Manuj Aggarwal

Judgement :

#22 \$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 3063/2013 & CM APPL. 5800/2013 JASWANT SINGH Petitioner Through Mr. Manuj Aggarwal, Advocate versus DELHI DEVELOPMENT AUTHORITY & ANR Through Respondents Mr. Sushil Dutt Salwan, Advocate Date of Decision:

07. h August, 2013. % CORAM: HON'BLE MR. JUSTICE MANMOHAN JUDGMENT MANMOHAN, J (Oral):

1. Present writ petition has been filed under Articles 226 and 227 of the Constitution of India challenging the respondent-DDAs letter dated 3rd December, 2002. The petitioner has also sought a direction to respondent-DDA to transfer Plot No. 97, Block F, Pocket 4, Sector 16 in Rohini Residential Scheme in the name of petitioners son Mr. Surjeet Singh.

2. The facts of the present case are that as the petitioner had been allotted Flat No.45 in Labour CGHS Ltd., Pitampura, New Delhi and Plot No. 97, Block F, Pocket 4, Sector 16 in Rohini Residential Scheme, respondent-DDA on 28th February, 2000 issued a Show Cause Notice to the petitioner for cancellation of Pitampura Flat. Respondent-DDA vide its letter dated 3rd December, 2002 also rejected petitioners request for transfer of Rohini Plot in the name of his son on the ground that petitioner was not entitled to two DDA properties. In the said letter, it was stated that petitioners request for transfer would only be considered after the petitioner surrendered his first allotment, that means, Flat No. F-45, Labour CGHS Ltd., Pitampura, Delhi.

3. Mr. Manuj Aggarwal, learned counsel for petitioner submits that the Supreme Court has categorically held in Delhi Development Authority vs. Jitender Pal Bhardwaj, (2010) 1 SCC 14.that a person who owns a DDA house or plot less than 65 sq. m. would be eligible for a second allotment. He points out that in the present case the plinth area of the flat bearing No. F-45, Labour CGHS Ltd., Pitampura, Delhi is only 22 sq. m.

4. Mr. Sushil Dutt Salwan, learned counsel for respondent-DDA admits that the Supreme Courts aforesaid judgment is applicable to the facts of the present case. He, however, states that as the petitioner had suppressed the fact of second allotment, respondent-DDA should be allowed to take action in accordance with law.

5. Having heard learned counsel for the parties this Court is of the opinion that in view of the Supreme Courts judgment in Delhi Development Authority vs. Jitender Pal Bhardwaj (supra) as well as this Courts Division Bench judgment in Delhi Development Authority Vs. B.B. Jain, LPA No. 670/2012, decided on 5th March, 2013, the petitioner is entitled to a second allotment inasmuch as the Pitampura flat is less than 65 sq. m. and, therefore, the prohibition contained in Nazul Land Rules is not attracted. It is pertinent to mention that in Delhi Development Authority Vs. B.B. Jaini (supra), the Division Bench held that any allotment by DDA after coming into force of Nazul Land Rules would be governed by the Nazul Land Rules and not by the provisions of a Residential Scheme to the extent that the

provisions of the Scheme were contrary to the Nazul Land Rules. The Division Bench also held that Nazul Land Rules are statutory in character.

6. Consequently, as the restriction of second allotment as envisaged under the Rohini Residential Scheme is inapplicable to the facts of the present case, this Court is of the opinion that petitioner has not suppressed any relevant information. Accordingly, respondent-DDAs Show Cause Notice dated 28th February, 2000 and communication dated 3rd December, 2002 are quashed and DDA is directed to transfer petitioners plot bearing No. 97, Block F, Pocket 4, Sector 16, Rohini, Delhi in favour of petitioners son Mr. Surjeet Singh within a period of twelve weeks.

7. With the aforesaid observations and direction, present writ petition and application stand disposed of. MANMOHAN, J AUGUST 07 2013 rn

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