

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA No.975/2004

%Date of Decision: 21.04.2008

PRAM PRAKASH BHATIA

...Appellant

Through: Mr. R.P. Lao with Mr. Bobby Lao,
Advocates.

Versus

UNION OF INDIA & ORS.

...Respondent

Through: Ms. Sangeeta Chandra, Advocate for
the DDA.

CORAM :-

THE HON'BLE MR.JUSTICE A.K.SIKRI

THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J.R. MIDHA, J. (Oral)

CM Nos. 13710-711/2007 in LPA No. 975/2004

1. This appeal was dismissed for non-prosecution as well as in default on 17.7.2007 as nobody appeared on behalf of the appellant. The appellant has filed these two applications, one for restoration of the appeal and the other for condonation of delay in filing the first application. It is stated in these applications that counsel had wrongly noted the date of 17.8.2007 instead of 17.7.2007 because of which he could not appear on 17.7.2007. No reply is filed to these applications.
2. In view of the aforesaid explanation given by the appellant, we condone the delay in filing the application for restoration, recall our order dated 17.7.2007 and restore the appeal to its original number.
3. These applications are disposed of accordingly.

LPA No. 975/2004

4. This appeal arises out of the order dated 22nd April, 2002 passed by the learned Single Judge whereby the learned Single Judge dismissed the writ petition.

5. The appellant is in unauthorized occupation of land bearing Plot/House No.T-5321, Block 8-A, Rubber Factory Area, South Ridge Road, WEA, Karol Bagh, New Delhi. The appellant filed the writ petition claiming allotment of the said property to him under the Gadgil Assurance Scheme contained in Resolution No.266 dated 16th October, 1970 on the ground that he had been in occupation of the said property.

6. The writ petition has been dismissed by the learned Single Judge on the ground that the claim of the appellant was considered by the Committee appointed by DDA and it was found that the petitioner did not fulfill the requirements for allotment of plot in Category 'B' and the DDA has agreed to allot plot to the petitioner in Category 'C' under the Gadgil Assurance Scheme in the same area after demolition of the hutments. The learned Single Judge further held that the petitioner raised disputed questions of fact relating to a period of more than last 50 years which cannot be agitated by way of writ petition. The learned Single Judge further held the petition to have become infructuous in view of acknowledgement of the appellant's claim by DDA for allotment in Category 'C'. The learned Single Judge directed DDA to allot the plot of land to the appellant by 30th June, 2002.

7. We have heard learned counsel for the parties and have considered their rival contentions. We do not find any infirmity in the order of the learned Single Judge. The appellant's case has been considered by the Committee constituted by the DDA for allotment of plot and the DDA has agreed to allot a plot to the appellant in category 'C' under Gadgil Assurance Scheme since the appellant did not fulfill the requirements for allotment of plot in category 'B'.

8. We, therefore, dismiss this appeal. The learned Single has directed the DDA to allot plot to the appellant by 30th June, 2002. DDA has not carried out the direction. DDA is, therefore, again directed to forthwith allot the plot to the appellant. However, since the appellant is a displaced person, DDA is directed not to disturb his occupation till the allotment of plot to him in terms of the order of the learned Single Judge. To this extent, the order of the learned Single Judge is modified.

9. The appeal is otherwise dismissed but without costs.

(J.R. MIDHA)
JUDGE

(A.K. SIKRI)
JUDGE

April 21, 2008
s.pal/nsk