

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

+ W.P.(C) 181/2007

ABDUL HAQ

..... Petitioner

Through : Mr. M S Saini, Advocate

versus

SULUM & JJ DEPTT. M.C.D. & ANR

..... Respondents

Through : Mr. O P Saxena, Advocate for respondent no.1

Ms. Pratibha Sharma for Mr. Anoop Bagai, Advocate for
respondent no.2

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 13.02.2008

I have examined the original file of JJ – MCD. The petitioner claims right to allotment of alternative commercial plot, on the basis that he was in occupation of premises no.3014/XIV Sarai Khalil Sadar Bazar, Delhi and was in occupation of 54'x13', 29'x13' and 11'x13' (open area). It is also the case of

the petitioner that at the time of CID Survey in 1975-76, the said property was registered at serial no.158 in the name of his brother Mr. Abdul Waheb. The petitioner states that Mr. Abdul Waheb was allotted alternate commercial site only in respect of area 29'x13' (upstairs) and no allotment whatsoever in respect of 54'x13', 29'x13' and 11'x13' (open area) was made to any person.

It is clear from the stand taken by the parties that offer of allotment of 15 sq.mts was made to the petitioner in 1980 which was rejected by the petitioner on the ground that he is eligible for allotment of a bigger area.

The original file of MCD indicates that the case of the petitioner for allotment of commercial plot in lieu of property no.3014/XIV was examined by the Allotment Committee but rejected in view of the CID Survey report. The petitioner was asked to produce documents to substantiate his claim that he was actually carrying on business from property no.3014/XIV and was in rightful occupation of the same. Some papers were filed to justify his claim but the Allotment Committee was of the view that the request of the petitioner should not be entertained for two reasons, firstly, even though the survey was done by a law enforcement agency and was spread over more than a fortnight or so but the petitioner's name did not find mention in the survey report in respect of property no.3014/XIV and secondly, if any such request was entertained it would open flood gates with applications being filed by doubtful

entities. It appears that the Allotment Committee in this regard had passed an order in September, 1980.

The case was again re-examined and again by Order dated 27th October, 1980 it was decided that in addition to the residential plot already allotted to the petitioner he shall be allotted plot no.149 measuring 15 sq.mts. at Shahazad Bagh, Delhi. The petitioner's claim for allotment of a commercial plot of a bigger size was rejected on 27th October, 1980.

The petitioner again made representation for allotment of bigger plot. However, his representations were rejected by the Allotment Committee way back on 8th January, 1981 with the Allotment Committee reaffirming the earlier decision. The file also reveals that the Vice Chairman, DDA had also rejected the request of the petitioner way back on 23rd March, 1981 for allotment of a bigger area.

Thereafter, in 1985 the files were sent from DDA to MCD as Slum and JJ Department was transferred to MCD. It appears that thereafter, the petitioner in 2004 again started making representations for having a fresh look and re-examination of his case for allotment of a bigger commercial plot. MCD without any specific reason and cause again started re-examining the matter as if no decision had been taken in this matter earlier in 1980 and 81.

Having considered and examined the matter and perusing the original files, I feel that the petitioner cannot succeed in the present matter as his claim was rejected way back in 1980 and 1981 by the Allotment Committee. This is clear from the file notings dated 12th September, 1980 and also from the Minutes of the Allotment Committee dated 8th January, 1981. In case, the petitioner had any grievance against allotment of a smaller plot he should have approached this Court soon thereafter. Making repeated representations does not explain the delay from 1981 till 2007 when the writ petition has been filed. Repeated representations cannot explain delay spanning over 25 years. It appears that some officers of MCD were trying to help out the petitioner and detailed and copious notes were again prepared in 2004 to justify the claim of the petitioner overlooking the fact that the claim of the petitioner had in fact been examined by Allotment Committee in 1980 as well as in 1981 and rejected for various reasons. It also appears that the petitioner had occupied 15 sq.mts of land which was allotted to him in the year 1980 without payment of the costs as demanded. Slum and JJ Department in the year 2004 started eviction proceedings for unauthorized occupation of the said plot against the petitioner and thereupon the petitioner started making representations and raised his claim for allotment of a bigger plot. It may be noted here that the petitioner did not make payment for 15 sq.mts of plot which was allotted to

him. MCD has already evicted the the petitioner from 15 sq.mts of plot and has taken possession.

In view of the above stated facts, I do not find merit in the writ petition and the same is accordingly dismissed.

SANJIV KHANNA, J.

FEBRUARY 13, 2008

vld/P