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Date of Decision : 19th March.2008

MADAN LAL NAYAK

KANSHI RAM SHARMA

GAJINDER SINGH SETHI

KARAMJIT SINGH

ANIL KUMAR

ABHINAV TIKU

SURESH CHAND

IRFAN AHMED

SANJAY JAIN

PROMILA

PARVEEN KUMAR MADAN

MOHINI

MANJEET SINGH

YOGESH ARORA

K.K.SWAJANA MITHRAN

PRAVEEN KUMAR BATTÀ

KAMLESH DEVI

RAHUL SAINI

.....

Petitioner in WP(C) No.828/2008

Through Ms.Alpana Pandey for Mr.M.K.Rajesh,
Adv. for the petitioner in WP(C) Nos.5170/07,
5184/07, 5226/07 & 5272/2007.

Ms.Richa Kapoor, Adv. for the petitioner in WP(C)
Nos.4837/07, 4838/07, 4960/07, 5042/07,
5076/07.

Ms.Isha Khanna, Adv. for the petitioner in WP(C)
No.4955/07.

Mr.Sumit Bansal with Mr.Manish Paliwal, Adv.
for the petitioner in WP(C) Nos. 4862/07,
4863/07, 5222/07

Ms.Maninder Acharya with Mr.R.K.Saini, Adv.
for the petitioner in WP (C) No.3257/07

Ms.Meera Bhatia with Ms.Manju Singhal with
Ms.Pooja , Adv. for the petitioner in WP(C)
No.4952/07

VERSUS

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through Mr.C.Mohan Rao, Adv.

Ms.Rajdipa Behura, Adv. for DDA in WP(C)
No.3257/07

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

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?

SANJIV KHANNA, J:

1. This common order will disposed of 18 writ petitions. The facts are almost identical but for the sake of convenience, I have taken WP(C) No.3257/2007 as the lead case.
2. In 1996, DDA had invited applications for allotment of 3,500 expandable houses consisting of Category A, one room set and Category B, two rooms set. The petitioners herein deposited Rs.15,000/- in October, 1996 and were successful. The petitioner, Mr.Madan Lal Nayak, in WP(C)No.3257/2007, was allotted Category A flat with disposable cost payable of Rs.3,47,300/-. Subsequently in the draw of lots held on 21.3.1997, the petitioner was also given a specific flat number.
3. On 1st September, 1998, DDA raised another demand of Rs.4,52,600/- in the case of Mr.Madan Lal Nayak. In other cases also, similar demands were raised.
4. Mr.Madan Lal Nayak and other petitioners challenged the additional demand raised by the respondent/DDA in writ petitions. One of the grievances made by the petitioners in these writ petitions was that the area in question was not developed and habitable. Learned Single Judge of this Court in his judgment dated 27th November,

2003 granted some concession to the petitioners till the date amenities and services were made available but on the question of costs, no relief was granted. In the operative portion, learned Single Judge directed that the petitioners shall pay 50% of the amount due along with 12% interest from the date of demand cum allotment letter and the balance 50% of the amount due would not be paid till the date amenities and services were made available. The second option given to the petitioners was that they could opt and pay the entire demanded amount within 45 days without interest on the basis of current costs. This judgment dated 27th November, 2003 has been followed in other cases.

5. Mr.Madan Lal Nayak exercised his option on or about 1st June, 2004 and other petitioners have also exercised their option in terms of order dated 27.11.2003 but belatedly. DDA has not rejected the offer or the option exercised by the petitioners on the ground that they had belatedly made the same. The case of the petitioners along with the case of one Mr.Praveen Prakash Tamta was examined by DDA including the Vice Chairman. It was noted that there were 14 applicants who had belatedly exercised their option after 45 days, i.e. the time limit stipulated in the judgment dated 27.11.2003. DDA decided to accept the option exercised by the petitioners even after

45 days, looking at large number of flats, which were vacant at Rohini at that time but this was subject to payment of current costs of flats and no change in the locality was to be permitted. This file noting was made on 24.3.2005.

6. Case of the 14 applicants who are similarly placed was accordingly cleared by the Vice Chairman in his decision dated 24.3.2005. However, only in one case of Mr.Praveen Prakash Tamta, demand cum allotment letter was issued on 25.5.2005. In cases of petitioners, demand cum allotment letters were issued on or after September, 2006 and the petitioners were charged cost price as prevailing on the date of issue of the allotment letter. It is submitted by the petitioners that this delay is entirely attributable to the respondent/DDA and they should not be burdened with higher cost because of lapse of DDA. It appears that DDA noticed that current cost of the flats in 2005 was lower than the old cost plus interest, if the same was calculated on the basis of allotment letters issued in 1999. Queries and answers itself took two years and ultimately in September, 2006, the matter was resolved in favour of the petitioners. However, by this time, the current cost of the flat itself had undergo revisions and had gone up several times. After Vice Chairman had approved allotment on current cost, the files of the

petitioners should have been processed within the reasonable time. 18 months or more time cannot be regarded in reasonable time especially when the Officers of DDA were aware that the petitioners have to pay current costs. Moreover, the case of Mr.Praveen Prakash Tamta, was processed along with the cases of the petitioners but in his case, demand cum allotment letter was issued on 25th May, 2005. Thus, there is substantial delay between the date on which the letter of allotments was issued to Mr.Praveen Prakash Tamta and the letter of allotment issued to the petitioners in September, 2006 or thereafter. In some cases, demand cum allotment letters have been issued in 2007 and the petitioners have been asked to pay current cost as prevalent in 2007.

7. During the course of hearing, it was suggested to the parties that the current costs as in January, 2006 can be taken as base and in addition, the petitioners should also pay interest @12% thereon. Learned counsel for the petitioners and the respondent/DDA were asked to take instructions. Learned counsel for the petitioners on instructions have stated that the said suggestion is acceptable. Learned counsel for DDA on instructions states that the suggestion is also acceptable to DDA, though this should not be treated as a precedent in any other case. Learned counsel for DDA was asked to

make relevant calculations. As per calculations made by DDA and shown in the Court, the total principal amount on the current costs payable as on January, 2006 works out to Rs.8,96,263/- (approximately, the amount may change depending upon size etc.). The disposal cost along with 12% interest with effect from 02.2.2006 till 31.3.2008 works out to Rs.11,29,291/-. Thus in case, the petitioners make payment by 31.3.2008, they will be liable to pay Rs.11,29,291/-. There may be slight variation depending upon the size of the flat.

8. In view of the above facts and the statements made by learned counsel for the parties, the following directions are issued:-

(i) DDA will make calculation and issue demand cum allotment letters to the petitioners on the basis of calculation sheet shown in the Court today, within 30 days. The petitioners will be liable to pay interest @12% till the date when demand cum allotment letter is issued and payment will be made in terms of the payment Schedule mentioned in the demand cum allotment letter.

(ii) DDA will be entitled to verify and examine genuineness of the case of the petitioners.

The writ petitions are disposed of.

MARCH 19, 2008
RN/VKR/RN

SANJIV KHANNA, J.