

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

+ W.P.(C) 645/2007

SHANTI DEVI Petitioner
Through Ms.Richa Kapoor, Adv.

versus

D.D.A. Respondent
Through Mr.Neeraj Atri, Ms.Vineeta Atri and Mr.Sanjay
Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER
08.04.2008

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1. This is a hard case. The petitioner's husband was registered under NPRS, 1979 for allotment of a LIG Flat. In 1989, petitioner's husband was allotted a LIG flat bearing No.1264, Pocket C, East Loni Road, Delhi under Hire Purchase Scheme. The petitioner's husband deposited Rs.22,786.87 in terms of demand cum allotment letter within the stipulated time. Unfortunately, DDA did not verify their records and on the ground that voucher/challan for deposit of Rs.22,786.87 was not furnished and the allotment was cancelled. It may be noted here that later on DDA revised the amount payable and reduced the same to Rs.20094.70.
2. In 1990, DDA realized their mistake and allotted another flat to the petitioner's husband at Kondli Gharoli and this time he was asked to pay Rs.75562.11 (inclusive of interest upto 13.4.1991). As the petitioner's husband had already deposited Rs.22,786.87 on 13.7.1989, he made

balance payment of Rs.56,192/- within time and also forwarded the challan and other documents to DDA. For reasons which are not forthcoming, possession of the flat was not handed over by DDA though all formalities had been completed. On 21.5.1992, the petitioner's husband passed away.

3. The petitioner herself is an illiterate lady residing in Village Bansoor, District Rajasthan. She made repeated representations to DDA to make allotment to her. On 24.11.2004, she was allotted a flat bearing No.51/T-1, Block B, Dilshad Garden in the draw held on the said date. Thereafter, DDA took one year and five months to issue demand cum allotment letter on 6th April, 2006 calling upon the petitioner to pay Rs.3,86,270.10. The petitioner has impugned the said demand.
4. In the counter affidavit filed by DDA, no justification and reason for the delay between 24.11.2004 and 06.4.2006 has been stated and the same remains unexplained. It is however, well-known that DDA charges cost price as on the date of issue of allotment letter. Allotment letter therefore, should have been issued within a reasonable time after the draw of lot, as burden to pay enhanced costs for the delay is that of the allottee. For unreasonable and unexplained delay, the allottee cannot be penalized. The onus to explain this period of one year and five months is on the respondent-DDA as facts are within their knowledge. Onus has not been discharged. The allottee cannot be burdened with extra costs. In the

absence of any material, four months time after 24.11.2004 is taken as the reasonable time. The petitioner will be entitled to costs as prevailing on 31.3.2005. Time gap between 24.11.2004, when draw of lot was held, and 31.3.2005 was sufficient for DDA to calculate the demand and issue demand cum allotment letter.

5. It is stated in paragraphs 14 and 15 of the counter affidavit that the plinth area of the flat now allotted to the petitioner is more than the plinth area of the flat, which was allotted to the petitioner's husband in 1990 and for the additional area i.e. 27.08 + 3.01(SG) sq. mtrs. the petitioner is to be charged extra amount. Costs prevailing as on 31.3.2005 will be charged for the extra area.
6. The petitioner has already paid cost of LIG flat. The said payments were made in 1989-91. The petitioner is entitled to interest on the said amount from the date of deposit till 31.3.2005. DDA will pay interest @ 7% on the aforesaid amount including the initial deposit till 31.5.2005. Fresh demand letter will be issued within six weeks from today. The petitioner will be liable to pay hire purchase installments from the date possession of the flat was given to her. In case the petitioner has made excess payment, the same will be calculated and excess amount shall be refunded to her within six weeks. No costs.

The writ petition is disposed of.

APRIL 08, 2008
RN

SANJIV KHANNA,J