

* HIGH COURT OF DELHI AT NEW DELHI
+ LPA No.450/2006 and CM No.3873/2006
% **Date of Decision: 15th February, 2008**

Triptinder Singh Appellant
Through: Mr.Sanjay Sehgal, Advocate

Versus

Delhi Development Authority Respondent
Through: Ms.Anusuya Salwan, Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers be allowed to see the judgment ? No
2. To be referred to the Reporter or not ? No
3. Whether the judgment should be reported in the Digest?N

DR. MUKUNDAKAM SHARMA, CJ

1. This appeal is directed against the judgment and order dated 19th October, 2005 passed by the learned Single Judge whereby the learned Single Judge dismissed the writ petition filed by the appellant.

2. The appellant applied under the Rohini MIG Residential Scheme for allotment of a plot in 1981. Vide allotment-cum-demand letter dated 5th September, 2003, the appellant was informed that he has been allotted plot No.279, Pocket C-V,

Sector 28, Rohini Phase – IV, Delhi in pursuance of a draw held on 11th June, 2003, at a premium of Rs.3,71,520/-. As per the said allotment-cum-demand letter the appellant was required to pay Rs.1,17,263/- by 11th November, 2003 and Rs.1,85,760/- by 10th January, 2004 and Rs.55,728/- was to be paid when possession was to be offered by the DDA.

3. It is an established fact that there was a delay of 178 days and 118 days in making payment of the first and the second instalments respectively. So far the payment of Rs.55,728/- is concerned, a request was made by the appellant on 30th April, 2004 for extension of time for making the said payment. As per the clause in the demand-cum-allotment letter, the said allotment was liable to be automatically cancelled if payment was not made within the period prescribed. The records reveal that a sum of Rs.55,000/- was deposited on 29th September, 2004 in the account of the DDA on account of the balance payment, which was required to be paid when possession was to be offered by the DDA as per the allotment letter. However, as possession of the plot in question was not handed over to the appellant, he filed a writ petition before the learned Single Judge thereby seeking

issuance of a writ of mandamus directing the DDA to hand over possession of the said plot.

4. The said writ petition was listed before the learned Single Judge on 19th October, 2005. The learned Single Judge perused the records and noticed that both the aforesaid payments were made belatedly. Not only this, the learned Single Judge also noticed some startling facts as per which the petitioner and some other allottees, in respect of the same draw of allotment, were not genuine persons, inasmuch as it was apprehended that property dealers appeared to be behind the whole scandal and in all probability the original allottees had sold the allotments. It is recorded by the learned Single Judge that it is a highly improbable coincidence that over 13 persons residing in 13 different colonies would go to the same bank i.e South Indian Bank Ltd. for preparation of the pay orders and deposit the same in their respective accounts with DDA. It was also noticed by the learned Single Judge that the delay in making the payments in all the aforesaid cases, as sought for, was not condoned by the DDA. Consequently, considering the facts and circumstances of the case, the learned Single Judge dismissed the writ petition filed by the appellant.

5. Being aggrieved by the aforesaid order, the present appeal is filed on which we heard the learned counsel appearing for the parties and have also perused the records placed before us.

6. During the pendency of the appeal, when the matter was listed on 14th September, 2006, learned counsel appearing for the DDA contended that the appellant and eight others have pooled the money from different sources and purchased the plot which they wanted to have at predetermined rate and, thereafter to sell them in the open market at a premium. As the said position was denied by the learned counsel for the appellant, this court directed the appellant to file an affidavit in this court to show as to how the payment of the plot in question was made by him indicating the source of payment, name of depositors, name of banks and with all relevant details within four weeks. Thereafter, the matter was listed from time to time but till date the appellant has not filed the said affidavit as directed by this court. The said conduct on the part of the appellant clearly gives rise to a doubt, as was expressed by the learned Single Judge as well, that the appellant is not a genuine person. We have also gone through the graphic representation of the payments, deemed draft numbers, names and addresses of the persons and the dates on

which the demand drafts were issued as mentioned in the impugned order. In the light of the said observations, we agree with the decision of the learned Single Judge that the appellant is not a genuine person and in all probability the original allottees have sold the allotments. The decision of the respondent, in our opinion, cannot therefore be faulted.

7. Accordingly the appeal is dismissed.

CHIEF JUSTICE

(REVA KHETRAPAL)
JUDGE

15th February, 2008
sjs