

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

+ **W.P.(C) 9932/2006**

SUBHASH CHANDER SHARMA Petitioner
Through Ms. Richa Kapoor, Adv.

versus

D.D.A. Respondent
Through Mr. Amit Mehra for Mr. Ajay Arora, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
03.04.2008

1. The petitioner was registered under NPRS, 1979 for allotment of a LIG flat and was allotted priority number 6035163. The priority of the petitioner matured in 1999 but due to lapse on the part of DDA, petitioner's name was not included in the draw of lots. In 2000 the petitioner made a representation to DDA that his name should be included in the draw of lots and he should be allotted a flat in Dwarka Zone where allotments were made to the persons registered under the scheme pursuant to the draw of lots held in 1999.
2. Respondent/DDA prayed for time to consider the said representation and ultimately on 15.10.2004, the petitioner was allotted a flat at Narela being flat no.168, Pocket no.2. Sector-A10, Narela, Third Floor.

However, this was not the end of the matter. It took DDA nearly 13 months to issue a demand cum allotment letter on 23.1.2006. The petitioner was accordingly required to deposit Rs.4,03,600/- before 23rd April, 2006. The petitioner has approached this court against the said demand cum allotment letter challenging the cost charged. It appears that the petitioner was not fully aware on what basis the petitioner had been asked to pay said cost. Another prayer was that he is entitled to 30% subsidy as was given in other cases of flats at Narela in 2004. The petitioner has also made a prayer that he should be allotted a flat at Dwarka.

3. DDA in the counter affidavit have clarified that the price charged from the petitioner is cost prevalent in the year 1999 and in addition the petitioner has been asked to pay interest as per schedule mentioned in the allotment letter. I have examined the schedule mentioned in demand cum allotment letter. It says that interest will be charged at 12% per annum for the first month and 18% per annum for the subsequent months.
4. DDA in the counter affidavit have admitted their default and lapse in not making allotment to the petitioner in the year 1999 and including his name in the draw of lots. I do not think it is fair on the part of DDA to charge interest at the rate of 12% per annum for first month and 18%

per annum for subsequent months, which is charged in cases where the allottee does not make payment in spite of issue of demand cum allotment letter. The petitioner's case cannot be compared with such cases. I may mention here that in case demand cum allotment letter was issued to the petitioner, he would have got possession of the property and utilized the same. The petitioner therefore has been denied possession of the property due to failure of the respondent to issue demand cum allotment letter and include petitioner's name in the draw of flats held in 1999.

5. The petitioner is accordingly directed to pay interest @ 12% per annum on the 1999 cost as calculated by DDA till the date of payment.
6. I also find that there is merit in the contention of the petitioner that option should be given to him to pay price charged from other allottees, who were successful in the draw of lots held on 15.10.2004 as in the said cases they were granted 30% subsidy. Accordingly, DDA will calculate the cost price of the flat in question as on 15.10.2004 after granting 30% subsidy as was done in other cases and the cost price of the flat on the basis of 1999 cost plus interest at the rate of 12% per annum and the petitioner will be asked to pay lesser of the two. The petitioner will be liable to pay interest @ 12% per annum from 1999 or from 15.10.2004 as the case may be till payment. Calculation will be

made and fresh demand cum allotment letter will be issued within six weeks from today.

7. In view of the order passed above learned counsel for the petitioner states that she is not pressing her claim for allotment at Dwarka.

The writ petition is accordingly disposed of.

SANJIV KHANNA, J.

APRIL 03, 2008
Vld/P