

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

% *Judgment Delivered on: 09.11.2009*

+ **LPA NO.141/2003**

MRS.NIRMAL KISHORE Appellant
Through: Mr.Narender M. Sharma and Ms. Babli,
Advocates.

Versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may 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? No.

PRADEEP NANDRAJOG, J.

1. The appellant is aggrieved by the order dated 07.11.2002 dismissing the writ petition filed by the appellant as also the order dated 31.01.2003 dismissing RA No.1243/2003 which sought a review of the order dated 07.11.2002.

2. The grievance of the appellant before the learned Single Judge was to the demand raised by DDA as per the

demand-cum-allotment letter issued in the name of the appellant demanding payment of the first, second, third and fourth installment for a flat at Sarita Vihar allotted to the appellants. The second grievance was of interest demanded in sum of Rs.47,799.67 while raising the demand.

3. The demand-cum-allotment letter dated 13.03.1987 evidences the raising of the demand of the four installments with retrospective dates as under:-

Installment	Amount	Due Date
First	Rs.63,250/-	19.02.1984
Second	Rs.50,600/-	01.12.1984
Third	Rs.63,250/-	01.06.1985
Fourth	Rs.50,600/-	31.01.1986

4. It was the case of the appellant that she applied under the fourth self-financing Scheme 1981 for being allotted a flat and as per the Scheme it was clearly told that as and when a flat would be allotted to the appellant she would be required to pay four installments spread over six months each in respect of 90% of the tentative

cost of construction of the flat and the balance 10% would be paid at the time of possession being offered and at that time the final cost of construction would be indicated.

5. Thus, the appellant questioned the first four installments being demanded in lump-sum. The appellant also questioned the levy of interest on the four installments on the ground that having raised the demand for the first time under the demand-cum-allotment letter, where was the question of interest to be paid, which interest, as per the brochure was payable on belated payment.

6. What had happened was that there were certain flats available for allotment which had been constructed by DDA and in respect thereof DDA invited applications from the registrants of its pending schemes, clearly indicating that in respect of the flats at Sarita Vihar, the first four installments would have to be paid on allocation.

7. It was further indicated that in addition to the said installments, interest @ 10% per annum will also be payable w.e.f. the date on which flats in the scheme were allotted in the first instance.

8. Thus, it was clear that those who applied to DDA in response to the brochure under which existing registrants could opt for flats which were already constructed, the concept of self-financing became inapplicable and thus, said registrants became liable to pay the first four installments the moment a flat was allocated to them.

9. Faced with the aforesaid, learned counsel for the appellant fairly concedes that the claim of the appellant that DDA could not demand the first four installments in lump-sum is incorrect and the decision of the learned Single Judge to said extent is correct.

10. Thus, learned counsel urges the appeal, restricted to the levy of interest in sum of Rs.47,799.67, interest being charged @10% w.e.f. the due dates pertaining to the four installments as noted hereinabove and the date of demand.

11. We may note the language of the brochure under which the existing registrants were given the option to apply for allocation of flats at Sarita Vihar. Vide note 2 it has been clearly indicated: *in addition to the installments based on the estimated costs, interest @10% per annum*

will also be payable w.e.f. the date on which flats in the scheme were allocated in the first instance.

12. Now, as far as the appellant is concerned, for the first time, the flat in question was allocated in her name as per demand-cum-allotment letter dated 13.03.1987. We may note that there is a difference between allocation and allotment. The former is to allocate the category in which the applicant would be given a flat and the latter i.e. allotment is the giving of a specific flat by number. In the letter dated 13.03.1987, though referred to as an allotment letter, what has been conveyed to the appellant is that she would be allotted a category 3 flat in Sarita Vihar, Pocket-A on the floor GR 2. No specific flat has been earmarked. Thus, being a case of first allocation, the only entitlement of DDA was to raise a lump-sum demand for the first four installments and interest for the period after the date of the allocation and not prior thereto.

13. Thus, we partially allow the appeal. The demand of interest in the sum of Rs.47,799.67 is quashed. The remaining demand is upheld. The writ petition filed by

the appellant shall be treated as having been allowed as per the preceding part of the present para.

14. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(SURESH KAIT)
JUDGE

NOVEMBER 09, 2009
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