

33.

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

+ W.P.(C) 23517/2005

Date of decision: 8th October, 2009

KAMLA DEVI

..... Petitioner

Through Mr. Manish Paliwal & Mr. Ateev Mathur,
Advocates.

versus

D.D.A.

..... Respondent

Through Ms. Sangeeta Chandra, Advocate for
DDA.

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 ?

ORDER

1. The petitioner's husband Mr. Charan Singh had deposited Rs.4,500/- and was registered under the AAY Scheme and was given registration No. 10652.

2. Mr. Charan Singh expired on 29th September, 2003. After the death of her husband, the petitioner on 17.12.2004, applied for transfer of registration and vide letter dated 7th March, 2005, she was informed that the registration/allotment stands transferred in her favour, she being a

legal heir of Mr. Charan Singh.

2. On 15.10.2004, i.e. before the application for transfer of mutation was filed, draw of lots was held and a flat was allotted in favour of Mr. Charan Singh. Before the date of mutation in the draw of lots held on 15th October, 2004, Mr. Charan Singh was allotted a flat and a demand-cum-allotment letter with the block date ending 29th April, 2005 was issued to him. On the basis of the said demand-cum-allotment letter, the petitioner deposited some payments. The petitioner thereafter wrote letters to the DDA seeking possession and thereafter filed the present writ petition.

3. The respondents in the counter affidavit have stated that Mr. Charan Singh had applied for cancellation of registration and Rs.4,500/- along with interest, was refunded to him against bill No. 408 dated 30th March, 1995 along with the refund cheque of Rs.9,862/-. It is stated by the respondent-DDA that the name of Mr. Charan Singh was wrongly included in the draw of lots as necessary entries for cancellation of registration were not made in the relevant registers. It is stated by the respondent-DDA that the said cheque was duly encashed by late Mr. Charan Singh as per the reconciliation register maintained by the respondent-DDA. Entries in the reconciliation register are made when a cheque is not encashed, because it is not presented for encashment, if it is returned, etc.

4. Counsel for the petitioner, during the course of arguments, admits that the original registration receipt is not available with the petitioner. Original receipt has to be filed with the DDA for payment. The respondent-DDA has filed today in the Court a photocopy of the book/register for the refund payments, which have been made. At serial No. 1590 name of Mr. Charan Singh with file No. (10652)95 appears. The details of the bank challan by which payment was made is also mentioned in the said register along with the amount paid. The file number tallies with the registration number mentioned by the petitioner in the writ petition and the demand letter. Thus there is evidence that payment/refund cheque was issued to Mr.Charan Singh. It may be also noticed that the draw of lots in the present case was held on 15th October, 2004 and the petitioner had applied for transfer of mutation/registration in her favour subsequently on 17th December, 2004, while her husband had expired on 29th September, 2003. Thus the petitioner had applied for transfer in her name only after draw of lots was held.

5. In view of the aforesaid documents on record and the facts stated above, I do not think the petitioner is entitled to any relief. The registration in favour of the petitioner's husband was cancelled way back in 1995 and the name of the petitioner's husband was wrongly included in the draw of lots. A mistake by DDA cannot confer any legal right on

the petitioner.

The writ petition is accordingly dismissed.

6. The amount deposited by the petitioner will be refunded within a period of ten days from the date, copy of this order is received by sending a cheque in the name of the petitioner by registered post. The petitioner will supply details of her bank account within seven days from today to the DDA.

SANJIV KHANNA, J.

**OCTOBER 08, 2009
VKR/P**