

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

+ **W.P.(C.) No.4344/2008 & C.M. No.8420/2008**

% **Date of Decision: 15.09.2009**

Vijay Kumar Malhotra Petitioner
Through Mr. R.K. Saini, Advocate

Versus

Delhi Development Authority Respondent
Through Ms. Manisha Tyagi, Mr. Pawan Mathur,
Advocates for the respondent/DDA with
Mr. S.S. Gill, Director

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The respondent/DDA had sought time to file an affidavit to disclose as to on what grounds the rates for 2003-2004 have been demanded from the petitioner though he was entitled for allotment in 1989 which fact had been admitted by the respondent, as the name of the petitioner was omitted on account of inadvertence on the part of the respondent. Despite four weeks time granted on 6th July, 2009, the affidavit was not filed. On 6th August, 2009, four weeks' time was again

granted to file the additional affidavit which has not been filed and in the circumstances the right of the respondent to file the additional affidavit justifying demanding the rates for 2003-2004 from the petitioner is closed.

2. The petitioner has sought for allotment of a 90 sq.mtr. plot under the quota reserved for Ex Serviceman despite registration for 23 years as he was entitled for allotment in 1989 but his name was not included.

3. During the pendency of the petition, by an interim order dated 19th January, 2009, DDA was directed to include the name of the petitioner for allotment in a developed sector in the draw to be held on 4th February, 2009, as the petitioner is an applicant since 1981 and his priority had matured in 1989.

4. The name of the petitioner was included in the draw of lots held on 4th February, 2009 and demand-cum-allotment letter No.F.54(10)09/LSB/Rohini/49418 dated 24/26th March, 2009 for plot No.65, Pocket 3, Block B, Sector 17 measuring 60 square meters, Phase II, in Rohini Residential Scheme was issued demanding an amount of

W P (c) no.4344 of 2008

Rs.6,53,520/-. In the demand-cum-allotment letter, petitioner has been demanded the rate of Rs.10,890/- per sq.mtr. which rates were his prevalent in 2003-2004.

5. The respondents in their counter affidavit to the writ petition had not denied that the petitioner was an applicant for allotment of a MIG plot in Rohini Residential Scheme vide Application No.111934 and his priority was 2583. It is also admitted that on account of omission of the priority number, the name of the petitioner was omitted from the computer record on the use of ID-8784. The respondent also admitted that DDA is considering the case of the petitioner for allotment.

6. Consequently, the petitioner is entitled for the plot which was drawn in his favour in the mini draw held on 4th February, 2009 and in respect of which a demand-cum-allotment letter dated 24th/26th March, 2009 has been issued demanding an amount of Rs.6,53,520/- on the basis of rates of 2003-2004.

7. Though the right of the respondent to file the affidavit justifying the rates of 2003-2004 by DDA from the petitioner has been closed,

however, the learned counsel for the petitioner on instruction states that the petitioner is agreeable to pay the rates for the plot for the year 2003-2004 as demanded by demand-cum-allotment letter dated 24th/26th March, 2009, though in the writ petition he has claimed rates on basis of 1989 as his priority had matured in 1989 and was omitted on account of lapse on the part of the respondent.

8. Since no other amount has been demanded by the respondent from the petitioner and the additional affidavit has not been filed by the respondent justifying any other demand, therefore, the respondent is not entitled for any other amount from the petitioner for allotment of said plot except Rs.6,53,520/- as demanded in the allotment letter dated 24th/26th March, 2009. Learned counsel for the petitioner states that an amount of Rs.2,25,000/- has already been paid by the petitioner to the respondent. In the circumstances, the respondent shall be entitled to receive the balance amount from the petitioner for allotment of said plot to the petitioner.

9. For the foregoing reasons, the writ petition is allowed. The petitioner is entitled for allotment of plot which has been intimated to the petitioner by demand cum allotment letter dated 24th/26th March, W P (c) no.4344 of 2008

2009. The petitioner shall be liable to pay the consideration for the plot at the rates of 2003-2004 as demanded in demand cum allotment letter as admitted by the counsel on instructions from the petitioner. Learned counsel for the petitioner states that an amount of Rs.2,25,000/- has already been paid on 19.5.2009. The respondent shall be entitled to verify the amount already paid by the petitioner and the balance amount shall be paid by the petitioner within four weeks. After payment of balance amount and on getting the formalities completed from the petitioner for handing over the possession of the plot, the possession of the plot shall be handed over to the petitioner within eight weeks after payment of balance amount. The respondent shall also execute the lease deed of the plot in favor of petitioner in accordance with rules and regulations. The writ petition is disposed of in terms hereof. Considering the facts and circumstances of the case, the parties are left to bear their own cost.

September 15, 2009
'Dev/AA'

ANIL KUMAR, J.