

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

+ W.P.(C) 7609/2009

Judgment delivered on January 29, 2010

RAVINDER NATH JAIN	 Petitioner
Through: Mr.N.Kinra, Advocate	
versus	
DDA	 Respondent
Through: Mr.Subhasis Saha for Ms.Manisha Tyagi,	
Advocate for respondent.	

**CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI**

1. Whether reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the Judgment should be reported in the Digest? Yes

G.S. SISTANI, J. (ORAL).

1. Counsel for DDA had entered appearance when the matter was listed on the first date of hearing i.e. 20.03.2009. Thereafter the matter was adjourned to 13.4.2009, 25.5.2009, 17.8.2009, 1.12.2009. On 1.12.2009 none was present on behalf of the DDA and this court had observed that despite time having been granted to file counter affidavit, neither counter affidavit has been filed nor anyone is present on their behalf; and subject to payment of costs of Rs.5000/- to be paid to the petitioner two weeks time was granted to file counter affidavit. Position is no different today. No counter affidavit has been filed.
2. Counsel for DDA seeks more time to file counter affidavit. The request is rejected, in view of the fact that sufficient time and opportunity has been granted to file counter affidavit.
3. The facts which have led to filing of this writ petition are that

petitioner booked an MIG flat under the NPRS 1979 vide registration no.30097. In the draw of lots held on 13.2.1991 petitioner was allotted a flat bearing No.93, ground floor at Jahangirpuri, Delhi and an allotment letter was received by him on 7.9.1991. As the petitioner was not interested in this flat he availed of the benefit of the tail end policy and deposited 20% (Rs.900/- on 24.9.1991) as the registration amount. After depositing the tail end charges the petitioner submitted a letter to the DDA dated 24.9.1991 registered by the DDA vide diary no.2941 dated 26.9.1991 and also intimated the change of address from 162, Veer Nagar, Jain Colony, Delhi to C-1/5, first floor, Rana Pratap Bagh, Delhi.

4. DDA allotted a flat bearing No.25, Second Floor, Sector-21, Pocket-7, Rohini, Delhi in the draw held on 31.3.2004 and sent the demand letter at the old address of the petitioner, despite information of change of address having been supplied to the DDA. On 10.9.2004 petitioner on one of his visits to Delhi met the Assistant Director and came to know about the allotment that a flat has been allotted to him in the draw held on 31.3.2004. The petitioner submitted a representation to the Assistant Director vide diary no.30703 dated 10.9.2004. In the representation petitioner brought to the notice of the DDA that he had not received the demand letter and he had come to know that last date of payment was 4.1.2005 and he requested the Assistant Director to issue the demand letter by hand to him or send the same by post as the last date of payment was still 4 months away.

Copy of this letter dated 10.9.2004 has been filed as Annexure P-5 to this writ petition. It is the case of the petitioner that he met the Deputy Director again on 1.9.2005 and reiterated his request and also stated that the last date of payment was 4.1.2005 and the petitioner had made a representation on a date prior thereto for handing over a copy of the demand letter by hand or by post.

5. Counsel for petitioner submits that despite the representation having been sent and the last date for making the payment having expired, the DDA did not hand over the demand letter. The petitioner has also filed copy of the entry receipt evidencing his visit to the office of the DDA on 1.9.2005. Petitioner again had a personal hearing with the Deputy Director on 19.4.2006 vide diary no.1501 wherein the petitioner again reiterated his request. The petitioner again met the Assistant Director on 20.6.2008 vide diary No.20252, requesting him to consider his case and issue a demand letter. The petitioner also made several representations including to the Lieutenant Governor of Delhi, Minister of Urban and Housing, Director of Public Grievances, Vice Chairman DDA, Commissioner (Housing), Deputy Director, Assistant Director DDA, through speed post on 19.9.2008, copy of the representation and speed post receipt have been placed on record.
6. Counsel for petitioner submits that his case is fully covered by various decisions rendered by this Court and is also covered by the change of address policy dated 25.2.2005. There is no opposition to this writ petition. Based on the documents placed on record, it is established that the petitioner had applied in 1979

NPRS and deposited a sum of Rs.4500/- as far back as on 25.9.1979. The deposit receipt has been placed on record. Photocopy of challan has been placed on record showing that petitioner paid the cancellation charges and surrendered his first allotment. The petitioner has placed on record a communication dated 24.9.1991, the letter informing the DDA with regard to change of his address by diary no.2941 bearing stamp of the DDA of 26.9.1991, a copy of the demand letter which has been placed on record shows that the demand/ allotment letter was sent at the old address of the petitioner. Even otherwise before the last date for making the payment, the petitioner had by letter dated 10.9.2004 informed the DDA that he had not received the demand letter and requested for a copy thereof. The petitioner thereafter visited the office of the DDA on 1.9.2005 which is evident from the receipt filed as Annexure P-6 which shows that he had visited the office of the DDA with regard to the status of his allotment. The petitioner has also placed on record copies of the letter dated 1.9.2005, showing that the demand/ allotment letter was not handed over to the petitioner on his request which was made even prior to the last date of making the payment as per the demand letter.

7. Even today there is no explanation as to why the demand letter was not handed over to the petitioner. In view of the settled position of law as well as on the basis of office order of the DDA dated 25.2.2005, the present petition is allowed. Since the petitioner has approached the DDA within four years from the

date of issue of the demand letter at wrong address and in fact the petitioner had approached the DDA even before the last date of making the payment as per the demand letter, the DDA shall issue a demand letter to the petitioner with respect to the flat No.25 second floor, sector-21, Pocket-7, Rohini, at the same costs as per which the demand letter was issued. In case this flat has already been allotted to any other person, the name of the petitioner will be included in the MINI draw of lots which shall be conducted within a period of six weeks from today positively and the petitioner shall be allotted a flat in the same area if available and thereafter a fresh demand letter will be issued within a period of four weeks thereafter. Accordingly present petition is allowed with costs quantified at Rs.10,000/-.

CM.No.3743/2009 (STAY)

8. In view of order passed today in the writ petition, no order is called for in this application. Dismissed.

G.S. SISTANI, J.

January 29, 2010
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