

* IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) No.3763/2008

Date of Decision: October 20, 2010

SANTOSH TOMAR Petitioner
through Ms. Richa Kapoor, Advocate

versus

DELHI DEVELOPMENT AUTHORITY Respondent
through Ms. Sangeeta Chandra, Advocate

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

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

REKHA SHARMA, J. (ORAL)

The petitioner is a widow. She was allotted shop No.S3-2/2 on the ground floor measuring 18.31 Sq. Meters in CSC-2, Rohini, Sector-2, Phase-I by the respondent-DDA and a demand letter dated March 17, 2004 was issued to her calling upon her to deposit a sum of ₹ 3,15,198.95P towards the cost of the shop. In terms of the said letter, the petitioner was required to make the payment by April 15, 2004 and in the event of her not making the payment by the stipulated date, she was liable to pay interest for the delayed payment. The petitioner along with some other persons who were similarly situated filed a writ-petition in this Court bearing No.14336/2004

assailing the demand letter of March 17, 2004 on two counts; firstly, on the ground that the cost of the shop was excessive, and secondly that a complete list of old and undisposed units was not supplied to them. The writ-petition so filed was dismissed by a learned Single Judge of this Court vide order dated November 17, 2005 against which the petitioner and others preferred a Letters Patent Appeal bearing No.2638 of 2005. During the pendency of the Letters Patent Appeal, the petitioner made a representation to the respondent stating that she was agreeable to the allotment made in her favour as per the demand letter of March 17, 2004. The representation of the petitioner was accepted and accordingly, the respondent issued a fresh demand letter dated March 17, 2006 to the petitioner offering the same shop at the same cost as was indicated in the demand letter of March 17, 2004 except that an additional sum of ₹ 45/- was charged for documentation. In view of the fresh demand letter of March 17, 2006, the petitioner withdrew the Letters Patent Appeal in so far as it pertained to her. Pursuant thereto, the petitioner in terms of the demand letter dated March 17, 2006 made full payment of the shop in question and also completed all the necessary formalities resulting in the execution of a conveyance deed in her favour on June 06, 2006.

The facts, as noticed above, are not in dispute between the parties.

The dispute has arisen because of a further letter from the respondent to the petitioner dated September 11, 2006 demanding from her an additional sum of ₹ 1,04,672/- with effect from April 15, 2004 to March 31, 2006 on account of alleged late payment

made by her towards the cost of the shop. It is this letter which has led the petitioner to file the present writ-petition.

The learned counsel for the respondent has tried to justify the additional demand of ₹ 1,04,672/- on the ground that during the pendency of the Letters Patent Appeal, the petitioner had agreed to take the shop in question in terms of demand letter of March 17, 2004. As per the counsel, since the demand letter of March 17, 2004 stipulated that in case the payment was not made within 30 days, the petitioner was liable to pay interest on the delayed payment, no fault can be found with the further demand of ₹ 1,04,672/- as contained in the letter dated September 11, 2006.

It is true that a demand letter of March 17, 2004 was initially issued to the petitioner but it cannot be ignored that she had challenged the same on two counts and upon dismissal of her writ-petition by a learned Single Judge of this Court, she had filed a Letters Patent Appeal which she withdrew only after the fresh demand letter dated March 17, 2006 was issued to her wherein no indication whatsoever was given to her that she was liable to pay interest as was subsequently sought to be recovered from her vide demand letter of September 11, 2006. It was open to the respondent-DDA to specify in the fresh demand letter of March 17, 2006 that she was liable to pay interest in terms of the earlier demand letter of March 17, 2004. The respondent through the letter of March 17, 2006 only raised a demand for a sum of ₹ 3,15,243.95P and as it was this letter of March 17, 2006 which led the petitioner to withdraw the Letters Patent Appeal, the respondent was not justified in raising any further demand.

In view of the above and in the peculiar facts and circumstances of the case, the demand letter dated September 11, 2006 is quashed.

The writ-petition is allowed.

REKHA SHARMA, J.

OCTOBER 20, 2010
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