

NEHA HARNEJA Petitioner
Through : Ms. Alpana Pandey, Adv.
versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through : Ms. Rajdipa Behura, Adv.

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

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

G.S.SISTANI, J. (ORAL)

1. Rule. With the consent of counsel for the parties, writ petition is set down for final hearing and disposal.
2. Brief facts of the case, as set out in the present petition, are that the father-in-law of the petitioner late Jagdish Kumar had registered himself under the New Pattern Registration Scheme, 1979, for allotment of an LIG Flat vide registration no.3118 and deposited a sum of Rs.4,500/- towards registration charges. The father-in-law of the petitioner (hereinafter referred to as the "original registrant) while filling up the registration form had mentioned both his residential address as well as his occupational address. Father-in-law of the petitioner expired on 28.6.2007, his wife had predeceased him and his son had also predeceased him having died on 14.12.2006. The petitioner herein upon receipt of knowledge of the registration, in question, applied to the DDA for mutation on 31.3.2009 being the only surviving legal heir of late Jagdish Kumar. On 14.5.2009, DDA duly effected the mutation in favour of the

petitioner, however, she was informed that mutation is only for refund purpose. The petitioner learnt that in fact a demand-cum-allotment letter was issued in favour of her father-in-law in the year 2001. As the amount was not paid by the father-in-law, late Jagdish Kumar, the flat allotted to the father-in-law of the petitioner was cancelled in the year 2004.

3. Learned counsel for the petitioner submits that petitioner is also a widow having lost her husband in the year 2006. Counsel further submits that father-in-law of the petitioner expired in the year 2007 and on inspection of the record she has learnt that the demand-cum-allotment letter was sent only at the residential address and not at the occupational address. Counsel also submits that the residential address of the father-in-law of the petitioner had changed but the information, in this regard, was not sent to the DDA. Counsel next submits that DDA was duty bound to send the demand-cum-allotment letter at all the addresses available with the DDA. In support of her plea, learned counsel for the petitioner relies upon a decision rendered by a Single Judge of this Court in the case of **Sudesh Kapoor Vs. D.D.A.** in W.P.(C)No.8174/2006, and more particularly paras 5 to 8, which read as under:

“5. Mr. R.K. Saini, learned counsel appearing for the petitioner points to the fact that the DDA ought to have sent the demand letter to the occupational address as well. He relies on the judgment of this Court in **Hirdaypal Singh v. DDA** 2007(II) AD (Delhi) 705.

6. Mr. Rajiv Bansal, learned counsel for the DDA states that it is not required to send the demand letter to each and every address available in the file. It was residential address which was relevant for this purpose. According to him, when admittedly the petitioner did not inform the DDA of the change in the residential address till 13.2.2006, it was not incumbent on the DDA to send the demand letter to any other address. He sought to distinguish the judgment in **Hirdaypal Singh** by submitting that if this rule were to apply in every case, it would cause tremendous administrative difficulties for the DDA.

7. The Court has perused the file of the DDA. The application form clearly indicates residential address as well as the occupational address. There is no reason why this Court should not apply the decision in **Hirdaypal Singh vs. DDA** to the facts of the present case. The rationale for the decision in that case which held that it was obligatory on the DDA to send the demand letter to every address available on the file, was explained in the following manner in para 5:

“To the Court it appears that the intimation of allotment ought to have been set not only to the present address available on file but, if the allotment letter was returned undelivered, to the permanent address as well. From the point of view of the DDA this would have not only cost nothing to the DDA but it would have ensured that the DDA has made every possible effort to reach the allotment letter to the petitioner. From the petitioner’s perspective, despite having intimated to the DDA his permanent residence, its failure to send the allotment letter there, meant that it resulted in the cancellation of his allotment. The loss to the petitioner of an allotment, for which he had been waiting since 1979, would indeed be far greater in such a situation. It must be realised that as a condition of eligibility for allotment of a flat under the NPRS 1979 an applicant should not own any other permanent residence. It is not difficult to imagine that persons who do not own premises in this city are quite likely to rent a residence and also periodically shift such residence taken on rent. Therefore, while it is certainly the obligation of such applicant to inform the DDA of the change of address, there is also a corresponding obligation of the DDA to attempt to send the allotment letter to every possible address of the applicant that has been intimated to it and is available on its records.”

8. The above rationale would apply in the present case as well. The Court finds that a similar approach was adopted by this Court earlier in the judgment dated 19.2.2003 in WP(C) 1014 of 2002 (**Satish Kumar Nayar vs. DDA**) which judgment is also affirmed in appeal. Accordingly, the petitioner is entitled to succeed.”

4. Counsel for the petitioner submits that the case of the petitioner is fully covered in facts and law by the decision rendered in the case of **Sudesh Kapoor** (supra). Counsel further submits that despite the office address being available with the DDA, the DDA did not send

the demand-cum-allotment letter to the father-in-law of the petitioner at the occupational address. Counsel also submits that based on the decisions of this Court the DDA has also issued the office instructions that in case demand-cum-allotment letter is received back undelivered the DDA should take steps to send the demand-cum-allotment letter by Registered AD post at all the addresses available in the file.

5. Present petition is opposed by counsel for the respondent DDA on the ground that the petitioner was duty bound to inform the DDA about the fresh and correct address. Counsel further submits that demand-cum-allotment letter was issued by the respondent DDA at the address mentioned in the application form. Counsel further submits that the order of cancellation was passed on account of non-payment of the amount. However, it is not denied that the petitioner's father-in-law had mentioned both the residential address and the occupational address in the application form at the time of his registration.
6. I have heard learned counsel for the parties. The basic facts are not in dispute. Late Jagdish Kumar, father-in-law of the petitioner, had registered himself under the New Pattern Registration Scheme, 1979, for allotment of an LIG Flat and deposited a sum of Rs.4,500/- towards registration charges. The original registrant, father-in-law of the petitioner, had duly intimated his residential as well as the occupational address, at the time of his registration, to the DDA. Father-in-law of the petitioner expired on 28.6.2007. The petitioner on receipt of information of the registration, in question, applied to the DDA for mutation on 31.3.2009 being the only surviving legal heir of late Jagdish Kumar. On 14.5.2009, DDA duly effected the mutation in favour of the petitioner, however, she was informed that mutation is only for refund purpose. As the amount was not paid by the father-in-law, late Jagdish Kumar, the flat allotted to the father-in-law of the petitioner was cancelled in the year 2004. The petitioner, at a subsequent stage, learnt that demand-cum-

allotment letter was not sent at the occupational address of the petitioner, which fact is not disputed by counsel for the respondent. Taking into consideration the facts of this case, I find that the case of the petitioner is fully covered by the decision of this Court in the case of **Sudesh Kumar** (supra) as also the Wrong Address Policy of the DDA. Consequently, writ petition is allowed. The name of the petitioner will be included in the next draw of lots, which shall be held within a period of three months from today and thereafter a flat shall be allotted to the petitioner. As far as possible, the allotment shall be made to the petitioner at the same area, as per the demand letter of the year 2001. The rate shall be charged, as per the policy, as the petitioner has not approached the DDA within four years from the date of issue of demand-cum-allotment letter. All formalities shall be completed as expeditiously as possible.

7. Writ petition stands disposed of in above terms.

April 16, 2010

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G.S. SISTANI, J.