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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9615/2007

Judgment dated 8th February, 2010.

RAMAN SHARMA Petitioner

Through : Ms. Richa Kapoor, Adv.

versus

D.D.A. Respondent

Through : Mr. G.D. Parashar, 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 learned counsel for the parties, writ petition is set down for final hearing and disposal.
2. Brief facts, as set out in the present petition, are that the petitioner got himself registered under the New Pattern Registration Scheme, 1979 (*hereinafter referred to as "NPRS, 1979"*) for allotment of an LIG flat. The petitioner was allotted LIG registration number 59051. In the year 1985, the petitioner sought conversion of his flat from LIG to MIG in accordance with rules and regulations of the DDA. The DDA acceded to the request of the petitioner on receipt of charges and converted the registration of the petitioner to MIG category under the NPRS, 1979.

3. It is the case of the petitioner that the DDA took over 25 years to allot flats to MIG registrants under the NPRS, 1979, and persons who converted their registration from LIG to MIG were to be considered at the end of the scheme that is when the tail end draws were to be held under the NPRS, 1979, (MIG Category). The DDA is stated to have held draws for registrants of the conversion category as that of the petitioner w.e.f. 2003 and continued to cover these cases for allotment according to availability of flats up to November – December, 2004.
4. Learned counsel for the petitioner submits that the name of the petitioner was not considered at its turn at the tail end draw for reasons best known to the DDA. The petitioner, it is stated, was entitled to be considered at the draw of MIG category lots held by DDA at the tail end Scheme in 2003 – 2004. Since the petitioner did not receive any intimation of allotment under the NPRS, 1979, under MIG category, the petitioner made enquires about the status of his registration from the DDA in January, 2007. The petitioner also informed the DDA on 17.01.2007 with regard to his change of address. This letter, which was sent by Registered Speed Post on 19.01.2007, was received by the respondent DDA on 24.01.2007. Petitioner is stated to have approached the DDA to enquire about the status of his allotment, however, he was shocked to learn that almost all the registrants had been allotted flats under the MIG category. In February, 2007, petitioner appeared in a public hearing before the Commissioner (Housing), DDA, seeking redressal of his grievance for not having been

allotted an MIG flat. The petitioner learnt that, in fact, an MIG flat at Dwarka had been allotted to him way back in the year 1994, however, the same stood cancelled as his name was included by the DDA in 1994 by mistake and, thus, a demand-cum-allotment letter was not issued to him.

5. Learned counsel for the petitioner submits that the case of the petitioner would be fully covered by the Office Order dated 25.02.2005, as the case of the petitioner is covered under the Missing Priority Cases. Counsel further submits that the petitioner approached the DDA within four years of the priority being missed, and, thus, the petitioner is to be allotted a flat at the rate of 2004 without payment of any interest.
6. Notice in this petition was issued. Counter affidavit has been filed. As per the counter affidavit an allotment was made in favour of the petitioner in the year 1994, however, all the four unsigned allotment letters are available on the file with an endorsement "*Registration cancelled*". It has also been stated that the allotment letter was not delivered to the petitioner.
7. Learned counsel for the petitioner submits that publicity was given in various newspapers calling upon the registrants to approach the DDA whose names have not been included in the tail end draw of lots and who have so far had not got the allotment. Counsel further submits that the petitioner cannot be penalized for the inaction on the part of the DDA. The name of the petitioner should have been included in the tail end draw of lots, which was held in the year 2004.

8. I have heard learned counsel for the parties and perused the documents placed on record. There is no explanation rendered by the DDA as to why the name of the petitioner was not included in the draw of lots which was held from 2003 upto November, December 2004, with regard to similarly situated persons. The Office Order dated 25.02.2005 reads as under:-

*DELHI DEVELOPMENT AUTHORITY
HOUSING DEPARTMENT*

No.F.2(10)/2002/Coord.(H)/49

Dated 25/2/05

OFFICE ORDER

The Delhi High Court vide its order dated 6.12.2004, in W.P.(C)No.19095/2004 and in other 15 Writ Petitions, has decided issues relating to issuance of demand letter at wrong address and missing priority cases of DDA flats. In view of the directions/orders of the High Court, Office Order No.F.2 (10)/2002 /Coord. (H)/1.18, dated 21.11.2002 is hereby amended as under:

1. In cases, wherein change of address was intimated by the registrant but erroneously not recorded by DDA and thereby demand letters were sent at wrong/ old address and the allottee approaches DDA within a period of four years from the date of allotment, he/she shall be allotted flat at the old cost, prevalent at the time when the priority of allottee measured and the allotment letter issued, and no interest will be charged. The allotment will be made at old cost subject to following:

(a) He should approach DDA within a period of four years from the date of issue of demand letter at the wrong address.

(b) He should have proof of having submitted a request for change of address to DDA duly signed by the allottee himself/herself i.e. proof of receipt at DDA Counter.

(c) He should have documentary proof of change of address viz. Ration Card/ Election Card/ Identity Card/ Passport, Etc. (Duly attested by the Gazetted Officer).

2. In cases, where such an intimation has been made but the allottee has not approached the DDA within a period of four years from the date of allotment, the allottee shall be considered for allotment of flat at the old cost prevalent at the time of original allotment + 12% simple interest w.e.f. the date of original allotment till the date of issue of fresh Demand-cum-Allotment Letter.

The same principle will be applicable in the cases of missing priority cases.

Commissioner (Housing) shall be the Competent Authority in all such cases.

This issues with the approval of Vice-Chairman, DDA.

(Asma Manzaz)
Commissioner (Housing)

9. Reading of this Office Order would show that it covers cases for 'wrong address' as well as 'missing priority cases' of the DDA. As per this Office Order in case of missing priority, the applicant should have approached the DDA within four years from the date of issuance of demand letter at the wrong address and in case the allottee approaches DDA after a period of four years from the date of allotment, DDA would be entitled to charge 12 percent simple interest. The principles of this Office Order are to be applicable in cases of missing priority cases. The basic facts are not in dispute. Taking into consideration that petitioner has approached DDA within four years of not having included in the tail end draw of lots; the letter (acknowledgement) which has been placed at page 35 of the paper book and duly acknowledged by DDA on 28.11.2007 would show that the petitioner approached the DDA within four years of 2004; and present petition was also filed within a period of four years, present petition is allowed. The name of the petitioner shall be included in the mini draw of lots which shall be held within a period of two months from today. The allotment of flat, if available, shall be made to the petitioner in the area, which form part of the tail end draw held in 2004. The allotment shall be made to the petitioner at the rates prevalent in the year 2004 as per Office Order dated 25.02.2005 without levy

of any other charges towards interest, since the petitioner approached the DDA within four years of the date of priority being missed.

10. Petition stands disposed of in view of above.

February 08, 2010
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G.S. SISTANI, J.