

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6398/2008

Date of decision: 21st August, 2009

RAJINDRA IRON MART & ANR Petitioners
Through: Mr. Sandeep Sethi, Sr. Advocate with
Mr. P.S. Bindra, Advocate.

versus

D.D.A & ANR Respondents
Through: Mr. Ajay Verma and Mr. Amit Mehra,
Advocates for respondent no. 1/DDA.
Mr. Darpan Wadhwa and Ms. Divya
Jha, Advocates for respondent no. 2.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

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

ORDER
21.08.2009

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1. The petitioner, M/s Rajindra Iron Mart, a partnership firm, had applied for allotment of an alternative industrial plot at Okhla under a scheme on 5th February, 1970. The scheme was for allotment of land for godowns and warehousing facilities to the members of Delhi Steel Dealers' Association. In the draw of lots held on 14.09.1970, Plot no. A-179, Okhla Industrial Area,

Phase-I, Delhi was allotted to the petitioner and a demand letter was issued. The petitioner did not make payment and asked for reduction of price. The allotment was cancelled due to non-payment, but subsequently restored.

2. The allotment was again cancelled in 1993 and a letter dated 10.12.1993 was written to the petitioner, recording as under: -

“With reference to your application No. 2662 for allotment of a alternative plot under the scheme of shifting that as per verification of Dy. Director of Industries (Lands), no warehousing activity found at 31/3-D, Gali No. 4, Anand Parbat, therefore, the allotment has been cancelled by Commissioner (LD), DDA.

The amount deposited by you in respect of above mentioned plot shall be refunded to you in due course. No further reference shall be entertained in this behalf.”
(emphasis supplied)

3. The petitioner did not challenge or question the said cancellation order in any court.

4. Nearly 2½ years after letter dated 10.12.1993 was issued cancelling the allotment, a representation was made with some documents with request that a proper enquiry be conducted as to whether the petitioner firm was carrying out warehousing activities. On the basis of this representation that the DDA wrote to the Commissioner of Industries asking for information and comments. The comments were furnished by the Commissioner of Industries vide letter dated 10.12.1996.

5. It appears that the file was again taken up for consideration sometime in the end of 1999 and a note was made/prepared by the Director (Lands) on 4.4.2000 for restoration of allotment. The subsequent note thereafter reads as under: -

“May kindly see notes from P 45/N onwards. The only requirement for which the allotment was held up so far was the proof of business in the original location which has now been submitted by the firm. This issue was discussed with V.C. sometime back when Shri Rajendra Kumar Gupta, ex-Min., Transport, GNCTD had called on him. As it is only one case of its kind, the consensus was that we may take an administrative view in DDA rather than sending it to LAAC again. The case has been processed by Dir (L) accordingly we may agree to the proposal.”

6. The file was placed before the Lt. Governor, who passed the following order on 11.05.2000:-

“I have gone through the case.

The LAAC had recommended allotment of alternative plots subject to verification by Industries Department of Delhi Government of the warehousing activity at the old site. The Industries Department has submitted that there was no warehousing activity at this site. Based on their report, the allotment was cancelled.

In the documents submitted by the party, there is no strong evidence to show that “warehousing activity” was carried out at premises no. 31/3D, Gali No. 4, Anand Parbat. This is also borne out in the report of the Industries Department of Government of Delhi.

Considering these facts, I do not see why the order of CLD, DDA at page 18-N should be changed in any manner.”
(Emphasis supplied)

7. The present writ petition was filed on 1st September, 2008. The averments to explain delay and laches in approaching this Court are in paragraph 25 of the writ petition, which read as under: -

“25. It is submitted that the aforesaid order was never communicated to the Petitioner and was only kept in the files of the DDA. In fact as stated above, the partner of the Petitioner Firm Shri Mahesh Chand Khandelwal visited the office of the DDA atleast once a week in the past 8 years, even then, there was never even a whisper of the aforesaid order of the Lt. Governor of Delhi. It is only upon receiving the photocopy of the file from the Respondent/DDA and the perusal thereof, it came to light that the matter was placed before the Lt. Governor of Delhi without any reason who refused to restore the allotment already made in favour of the petitioner. The aforesaid is clearly illegal and arbitrary. Moreover, from the perusal of the documents, it is clear that the case of the petitioner squarely falls within the guidelines framed for allotment of alternative plot of land in lieu of its earlier plot in the non-conforming area.”

8. It is admitted by the petitioner during the course of the arguments that no written letter or communication was addressed by the petitioner after 2000. It is difficult to believe and accept the contention of the petitioner that repeated visits at least once a week were made to the office of the DDA for a period of 8 years, but they were not aware of the order passed by the Lt. Governor.

9. Even otherwise the Lt. Governor in his order has specifically referred to the fact that verification was made in 1993 and the petitioner was not carrying on warehousing activity on the old site i.e. Anand Parbat. Accordingly, the allotment was cancelled. This was also stated in the letter

dated 10.12.1993 written by DDA to the petitioner cancelling their allotment. In case the facts stated in the letter dated 10.12.1993 were incorrect, the petitioner would have immediately responded and controverted the said facts. On the other hand, the documents placed on record show that the petitioner made a written representation with documents only on 22nd July, 1996 i.e. 2½ years after the cancellation order was issued and communicated to the petitioner. During the course of the hearing of the present matter, the petitioner has produced for perusal before the Court another letter dated 28th April, 1994 written to DDA by the petitioner. Letter dated 28th April, 1994 states that the withdrawal of allotment was bad because the report submitted by the Director of industries was incorrect and a fresh report should be called for. No documents were furnished along with the said letter.

10. Further, during the course of hearing, learned counsel for the petitioners has stated that in 1991-92 business activity in the property located at Anand Parbat was stopped. It is, however, stated that this was not a voluntary closure as business activity was not permitted in the said area. These facts are not stated in the writ petition. In any case, no verification in 1996 or thereafter was possible after business activity was stopped.

11. In view of the aforesaid discussion, I do not find any merit in the writ petition as the allotment itself was rightly cancelled vide letter dated

10.12.1993. The writ petition is also liable to be dismissed on the grounds of delay and laches.

12. Learned counsel for the petitioner at this stage states that the petitioner had made some payment towards cost of the plot which is still retained by the DDA. No directions are being passed in this regard as the petitioner states that he is not pressing for refund.

The writ petition is dismissed.

SANJIV KHANNA, J.

AUGUST 21, 2009

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