

37

\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 13759/2009

% ***Judgment Delivered on: 21.04.2011***

R C BANSAL Petitioner

Through: Mr.N.Kinra, Advocate

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr.Arun Birbal, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

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

G.S.SISTANI, J. (ORAL)

1. Rule. With the consent of counsel for the parties, present petition is set down for final hearing and disposal.
2. The necessary facts to be noticed for the disposal of the petition are that the petitioner had booked an MIG flat under NPRS 1979 Scheme on 20.06.1980. In the application form the petitioner had mentioned his address as 228, Hari Nagar, Ashram, Delhi. The petitioner changed his address from Hari Nagar to House No.36, Sector-12, Noida, District-Ghaziabad, U.P. and informed the DDA by a communication which was received by the DDA vide diary No.42467 dated 8.7.1986, copy of which along with endorsement has been filed as annexure P-2 to the petition. Subsequently

petitioner by a communication dated 7.2.1994, which was received by the DDA vide diary No.296. Petitioner again requested the DDA to change his residential address in their record. A photocopy of the ration card was also duly annexed with this communication. A reminder dated 22.09.1994 was also addressed to the DDA, which was received by the DDA vide diary no.5149.

3. The grievance of the petitioner is that despite three letters addressed to the DDA informing them about change of his address and the letters having been duly received by them, the demand-cum-allotment letter with block dates 04.07.1996 to 13.07.1996 was issued to the petitioner at the old address. By communication dated 14.12.1999 which was received by the DDA vide diary No.875 addressed to the Director (Housing), DDA, petitioner brought to the notice of the respondent that despite three letters, he had received no response from the DDA. Mr.Kinra, submits that the petitioner was shocked to see an advertisement in the "Hindustan Times" dated 11.11.1999 wherein it was stated that priority number 26334 in MIG category had already been covered by the DDA. The petitioner informed the DDA that he has not received any allotment from the DDA. Since no reply was received, the petitioner again wrote to the DDA on 11.02.2000, which communication was received by DDA vide diary No.85. Vide communication dated 3.1.2001 DDA informed the petitioner that flat No.269, Sector A-10, Pocket-4, Ground Floor was allotted to him

in the draw of lot held on 29.03.1996 and the same had been cancelled. Cancellation letter was also sent on 08.10.1996. Petitioner again addressed a letter dated 20.02.2001, which was received by the DDA vide diary no.688, in which petitioner reiterated his having sent various letters to the DDA about change of address. This was followed up by another communication dated 6.10.2002, however, no satisfactory response was received. Mr.Kinra, submits that petitioner had also filed copies of the receipts, evidencing his visits to the DDA on 26.08.2004 and on 11.03.2005, however, in the absence of any suitable response the petitioner addressed a legal notice to the DDA on 27.04.2009 and in response to the legal notice, petitioner received a letter from the Office of the DDA on 15.06.2009, informing the counsel for the petitioner that the case of the petitioner had been placed before the Committee and a meeting would be held shortly and decision would be communicated to him. Since no information was received with regard to the Minutes of Meeting, the petitioner made an application under Right to Information Act, on 15.10.2009 with regard to the status of his case and in response thereto vide communication dated 12.11.2009 petitioner was informed that his case was under active consideration. Since the petitioner did not receive any further communication, present writ petition was filed.

4. Counsel for the petitioner submits that the case of the petitioner is fully covered by the wrong address policy of the DDA and since the

petitioner approached the DDA within four years, petitioner would be entitled to the benefit of the policy and would be entitled to the flat at the same rates, as per the demand-cum-allotment letter. Counsel for the petitioner has relied upon *Usha Sakia Vs. DDA* [WP(C)No.266/2007], *Hirdayapal Singh Vs. DDA* [WP(C)No.15002/2006] and also on a recent decision rendered in the case of *Bhupinder Singh Vohra Vs. DDA* [WP(C)No.2624/2010]. In support of his submission that petitioner would be covered by the policy of the DDA, petitioner has placed on record a copy of the office order dated 25.02.2005 as annexure P-22 with the paper book. Mr.Kinra, submits that in accordance with this office order in case the applicant approaches DDA within a period of four years from the date of issue of demand-cum-allotment letter, on account of wrong address, he is to be allotted a flat at the old costs prevalent at the time when the priority of the allottee matured.

5. Original file of the case is produced by Mr.Birbal, advocate in court today. He submits that letter dated 08.07.1986 filed at page 11 of the paper book, letter dated 07.02.1994 filed at page 12 of the paper book and letter dated 22.09.1994 filed at page 14 of the paper book, are available in the original record of the DDA, however, at the time when the demand-cum-allotment letter was issued in favour of the petitioner in the year 1996, the aforesaid letters were not on record. He further submits that a vigilance

enquiry was conducted, however, no finding has been returned on the ground that this is an administrative matter.

6. Mr.Birbal, also submits that original file which has been produced in the Court shows that three letters were not available in the file when the demand-cum-allotment letter was issued. He submits that it should be presumed that petitioner has placed photocopies of these communications on record.
7. I have heard counsel for the parties and duly considered the rival contentions. The petitioner had issued not one but three letters to the DDA informing DDA with regard to the change of his residence. In the absence of any cogent explanation with regard to receipt and diary no of all the three communications and also in the absence of any vigilance report from the DDA, it is to be presumed that all the three communications (communications dated 8.7.1986, 7.2.1994 and 22.09.1994) which bear the stamp and receipt of DDA and also the diary number, were issued by the petitioner and were received by the DDA. Accordingly, case of the petitioner is covered by the wrong address policy of the DDA dated 25.02.2005. Petitioner would be entitled to an allotment of a flat in the same area, if available, at the old cost prevalent at the time when his priority had matured and no interest would be charged, as the petitioner had approached DDA within four years of the date of allotment. The writ petition is accordingly, allowed, leaving the parties to bear their own costs. Let the demand-cum-allotment

letter be issued in favour of the petitioner within six weeks from receipt of this order. Counsel for the petitioner submits that petitioner will make the payment within a period of six weeks thereafter positively.

8. Petition is allowed, in above terms.

G.S. SISTANI, J.

April 21, 2011
'ssn'