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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2232/2010

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Judgment Delivered on: 09.11.2012

PRITHI SINGH

..... Petitioner

Through: Mr.R.K. Saini and Mr.Vikram Saini, Advs.

versus

DDA

..... Respondent

Through: Ms.Shobhna Takiar, Adv. for the DDA
Mr.Arun Birbal, Advocate for the R-2

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J. (ORAL)

1. The agricultural land of the petitioner was acquired. In lieu of compulsory acquisition, on 09.12.1987 a recommendation was made to the DDA by the Land & Building Department of Delhi Administration in favour of father of the petitioner for allotment of an alternative plot of 400 sq. yds., consequent to which a draw was held on 31.12.1992 by the DDA. A plot measuring 334 sq. meters bearing No.32, Pocket-8, Sector B-4 Narela, Delhi was allotted and an allotment-cum-demand letter was issued by the DDA in his favour on 18.01.1993. On account of non-payment, DDA cancelled the allotment, however, on a representation made the allotment was restored by a letter dated 12.03.1997.
2. Upon demise of Sh.Gurdayal (father of the petitioner), the petitioner made an application to the DDA for mutation, which was allowed vide letter dated 27.05.1997 and thereafter on 11.09.1997, a possession letter was issued by the DDA. Possession was handed over on 26.09.1997 and thereafter DDA executed a perpetual lease in respect of the demised plot.

Signature Not Verified
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By:AMULYA

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On account of financial difficulties and family problems, the petitioner could not construct over the plot within a period of two years, as stipulated in clause 4 of the Lease deed. Petitioner thereafter made a request to the DDA seeking extension of time for carrying out construction on 04.07.2008. However, till December, 2009, the petitioner did not receive any reply/letter from the DDA. In the absence of any response from the DDA, the petitioner was compelled to give a reminder in writing on 28.01.2010 requesting DDA to allow extension of time to construct the building on the demised plot. By a letter dated 10.03.2010 request of the petitioner was declined by the DDA on the ground that the recommendation letter No.33[35]/28/87-I.&B/Alt/42110-11 stood withdrawn by the Land & Building Department, Delhi Administration, as possession of the acquired land was not handed over to them. As the petitioner had already handed over possession of the acquired land and the petitioner had not received any letter from the Land & Building Department, withdrawing their recommendation, the petitioner filed the present writ petition.

3. During the pendency of the writ petition, the Land & Building Department was impleaded as a party vide order dated 25.02.2011. A short affidavit has been filed by the Land & Building Department. Relevant portion of the affidavit reads as under:

“3. That as per the record of Government of NCT of Delhi, the land of Sh.Gurdayal son of Shri Molar, was acquired in Village Narela (Bhorgarh). The total land acquired was 35 bigha 19 biswa, in which Shri Gurdayal was having ½ share vide award No.19/1978-78 dated 12.06.1978 by the Govt. for the purpose of planned development of Delhi under the scheme of large scale acquisition and development of land in Delhi-1961. Notification for the acquisition of land under Section 4 of Land Acquisition Act was issued vide notification No.F.1(43)/63/I.&B/LA dated

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30.10.1963. Ultimately possession of the acquired land was taken on 10.07.1978 and compensation was paid to the applicant on 27.07.1978. Application for alternate plot in this case was filed on 26.08.1987.

4. The Land & Building Department after considering the application of Shri Gurdial issued a recommendation letter in his favour dated 09/12/87 in file No.F33(35)/28/87/L&B/ALT for allotment of a 400 square yards plot to DDA. A copy of the said letter was also sent to the applicant.

5. That it is now in the purview of DDA to allot an alternative plot to the petitioner as per its policy.

6. That the recommendation made in this case has not been withdrawn by the replying department."

4. Counsel for the DDA submits that the DDA received a letter from the Land & Building Department informing the DDA that the recommendation of the petitioner stands withdrawn. Counsel for the DDA further submits that not only was this communication received, but the Land & Building Department had also issued a show cause notice to the petitioner. Copy of the letter has been placed on record. Counsel for the petitioner as also counsel for the Land & Building Department submit that the letter dated 26.06.2000 issued by the Land & Building Department to the DDA was a general letter and it did not pertain to the petitioner, and further at no point of time did the DDA seek clarification from the Land & Building Department before rejecting the request of the petitioner.
5. I have heard counsel for the parties and considered their rival submissions. It is not in dispute that the agricultural land of the petitioner was acquired and as per the policy of the Land & Building Department an alternate plot of 400 sq. yds. was offered to the petitioner. The name of the petitioner was included in the draw, which

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was held by the DDA on 31.12.1992 and a plot measuring 334 sq. mtrs. was allotted to the petitioner, possession of this plot was also handed over and a lease deed was also executed on 03.11.1997. Petitioner requested the DDA for extension of time for carrying out construction over the plot which was rejected on the ground that the recommendation made by the Land & Building Department was withdrawn. Reliance has been placed by the DDA on a communication dated 27.06.2000, which reads as under:

“To
The Deputy Director (I.A) Resdl.
Delhi Development Authority,
Vikas Sadan, I.N.A.
New Delhi.

Sub: Allotment of alternative plot under the scheme of Large Scale Acquisition, Development & Disposal of Land- Minutes of the meeting held on 14.12.99 at 11.00 A.M. in the Chamber of Additional Secretary (Land), L&B Department, Govt. Of NCT of Delhi.

Sir,

Kindly refer to your letter No. F.11(782)/87/LSB(R)/5784 dated 7.4.2000 on the subject cited above. In this connection, I am directed to inform you that the earlier recommendations (as per list attached) made by this department have been re-examined. DDA has now expressed its inability to allot alternative plot to such recommendations in whose cases the possession of the acquired land was not handed over to them. Accordingly, it is proposed by the department to withdraw the aforesaid recommendation since the acquired land in those cases were not transferred to DDA.”

6. Reading of the above letter shows that it is a general letter and not that the allotment made in favour of the petitioner has been specifically cancelled. Even otherwise the letter of 27.06.2000 does not pertain to grant of extension of time for construction. The letter dated 27.06.2000

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sought to be relied upon by the DDA in fact is not an applicable and has nothing to do with the request of the petitioner for extension of time to construction. The letter dated 27.06.2000 is with respect to the allotment of alternative plot whereas in the case of the petitioner a plot was allotted to him on 18.01.1993, possession granted on 26.09.1997 and perpetual lease executed on 3.11.1997. The reliance by the DDA on the show cause notice issued to the father of the petitioner and a copy marked to the DDA is also misplaced as it seem even the show cause notice was general in nature for the reason it talks of "inability on the part of the DDA to allot an alternate plot to such recommendees in whose cases possession of the acquired land was not handed over". In the case of the petitioner allotment was already made. Be that as it may in case the DDA had any doubts DDA should have taken up the matter with the I.&B department and not forced the petitioner to approach this court. This is yet another case of the DDA either not applying its mind or for reasons best known an attempt to harass an ordinary citizen. It is shocking that despite the request of the petitioner since 2006 the DDA did not bother to seek a clarification from the I.&B department.

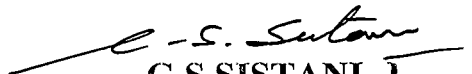
7. In view of the counter affidavit which has been filed by the Land & Building Department, wherein it has been categorically stated that the recommendation made in this case has not been withdrawn, the writ petition is allowed.
8. DDA is directed to consider the request of the petitioner for extension of time for raising construction over the subject plot. The request of the petitioner will be considered by the DDA within a period of 60 days from today and in case it is declined a reasoned order will be passed and communicated to the petitioner at the address mentioned in the writ petition. Writ petition is allowed with costs of Rs.5,000/-.

CM.No.7651/2012

9. In view of order passed in the writ petition, present application is dismissed.

NOVEMBER 09, 2012

ssn


G.S.SISTANI, J