

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 18.04.2013

+ W.P.(C) 716/2012

BACHNI DEVI

..... Petitioner

Through: Ms. Richa Kapoor, Adv.

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr. Arun Birbal, Adv.

+ W.P.(C) 731/2012

VARINDER KAUR

..... Petitioner

Through: Ms. Richa Kapoor, Adv.

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Ms Manisa Tripathy Pandey and Mr.
Ashutosh Kaushik, Advs.

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

W.P.(C) 716/2012

Late Shri Ved Prakash, husband of the petitioner in W.P (C) No.716/2012 Smt. Bachni Devi got himself registered with DDA under its New Pattern Registration Scheme, 1979 (hereinafter referred to as “NPRS-1979”) for allotment of an LIG Flat by DDA and was assigned priority number 52765. The turn of late

Shri Ved Prakash matured on 23.3.2006. In the draw of lot held on 27.9.2007, a flat came to be allotted to Shri Ved Prakash. However, no allotment letter was issued to him at that time. Vide letter dated 14.1.2008, the husband of the petitioner intimated change of his address to DDA. The learned counsel for the respondent states that though the change of address was intimated by the husband of the petitioner on 14.1.2008, the requisite documents in this regard were not submitted at that time and the complete documents for effecting change of address in the record of DDA came to be submitted by him only in September, 2009. The husband of the petitioner died in January, 2011 and thereupon she wrote a letter dated 10.3.2011 to DDA seeking mutation of the aforesaid allotment in her name and also submitted the requisite documents including the death certificate of her husband. DDA asked her vide letter dated 17.3.2011, to submit documents as per its policy. Such documents came to be submitted by her on 4.5.2011. On the said documents being submitted by the petitioner the registration and allotment was mutated by DDA in the name of the petitioner, vide letter dated 4.7.2011. Thereafter demand-cum-allotment letter came to be issued to her on 30.11.2011 and 6.12.2011. The allotment made to the petitioner being on hire-purchase basis, she was required to deposit initial payment by 4.12.2012 and the balance amount was to be deposited in 144 equal monthly installments commencing from 10.3.2012. The initial amount could also be deposited with interest latest by 3.6.2012. Admittedly, the said amount came to be deposited by the petitioner on 2.6.2012 i.e. within the time limit stipulated by DDA in this regard.

2. The only question involved in this petition is as to what should be the price which the DDA could be charged from the petitioner for allotment of the aforesaid flat. The learned counsel for the petitioner has drawn my attention to the Office Order dated 25.2.2005 issued by DDA. To the extent it is relevant, the said order reads 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 matured 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).
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The same principle will be applicable in the cases of missing priority cases. Commissioner (Housing) shall be the Competent Authority in all such cases.”

Vide order dated 14.3.2005 issued by the Commissioner (Housing) of DDA it was directed that the registrants of NPRS-1979 who had opted for ‘Awas Sakar Yozna’ but had not been identified as members of the Society would continue to remain members of NPRS-1979 along with their priority numbers and would be

entitled to allotment at the prevalent rates at that time when they were entitled for allotment according to their priority number.

3. Vide circular dated 6.6.2006, the office order dated 25.2.2005 was made applicable in case of missing priority and change of address in case of registrant of Awas Sakar Yozna who had opted for Awas Sakar Yozna but had not been identified as members of the society.

4. It is also an admitted position before me that in the year 1989, the husband of the petitioner had shifted from NPRS to Awas Sakar Yozna of DDA, but later he reverted back to NPRS-1979, when that scheme was closed on 7.10.1992.

5. Vide circular dated 14.8.2008, the DDA carried slight modification in the aforesaid policy and to the extent it is relevant, the said circular reads as under:

“a) The cases in which in which the allottee approaches the Department within 4 years and allotment is made after 4 months, interest @ 7% p.a. simple to be considered in the Disposal cost for the intervening period (excluding a period of 4 months).”

6. It is an admitted position that the husband of the petitioner had approached DDA along with a request for change of address, within four years of the allotment being made to him. The change of address in the record of DDA was necessary, so that the allotment letter could be sent at that address. It is also an admitted position that though initially he approached DDA on 14.1.2008, the documents required for effecting change of address in the record of DDA came to be submitted by him only in September 2009. A perusal of the office order dated 25.2.2005 would show

that in order to be eligible to the decision contained in the said office order, the allottee should not only have approached DDA within four years from the date of issue of demand letter, but he had also to submit documentary proof of change of address like ration card, election card, identity card, passport etc. Therefore, if an allottee approaches DDA without documentary proof of change of address, he, in my view, shall be deemed to have approached DDA in terms of the office order dated 25.2.2005 only on the date he submits documentary proof of change of address. Therefore, the husband of the petitioner shall be deemed to have approached DDA in terms of the office order dated 25.2.2005 only in September 2009 when the requisite documents evidencing his address were submitted to DDA.

7. Since the office order dated 25.2.2005 had been modified vide order dated 14.8.2008, by the time the requisite documents were submitted by the husband of the petitioner to DDA in September, 2009, the petitioner would be required to pay interest @ 7% per annum for the intervening period, excluding the period of four months, in terms of the said circular dated 14.8.2008.

8. The allotment came to be made to the petitioner on 27.9.2007 though his turn had matured in March, 2006. Since the period of four years is to be computed from the date of allotment, in my view, the petitioner is required to pay interest @ 7% per annum for the period from 27.9.2007 to 30.9.2009, after excluding four months from the said period, in compliance of the circular dated 14.8.2008 issued by DDA.

9. The learned counsel for the petitioner states on instructions that the petitioner is ready to pay interest on the cost prevalent on 27.9.2007, at the rate of 7% per annum for the period from 27.9.2007 to 30.9.2009. The petition is, therefore, disposed of by directing that the petitioner would be entitled to pay the cost of flat as on 27.09.2007 alongwith interest at the cost prevalent on 27.9.2007, from that date till 30.9.2009, after excluding four months, from the said period.

W.P.(C) 731/2012

10. In this petition, the husband of the petitioner late Shri Amrik Singh had got himself registered with DDA under NPRS-1979 Scheme for allotment of an LIG flat assigned priority number 52269. Shri Amrik Singh was allotted an LIG flat bearing number 71, Second Floor, Pocket-A, Block-A, Lok Nayak Puram on cash down basis in a draw of lot held on 27.9.2007. The petitioner, vide her letters dated 7.12.2007 and 19.12.2007 intimated the DDA of the death of her husband as well as change of address. DDA, vide letter dated 25.3.2008 and 11.4.2008 asked her to furnish the documents required for mutation. The documents, came to be submitted vide letter dated 28.8.2008. Thereafter, she was asked to furnish some more documents which she submitted vide letters dated 29.5.2001 and 24.8.2001. The mutation in her name was carried out on 26.5.2011.

11. Considering the fact that though the petitioner had approached DDA within four years of allotment, she would be entitled to the benefit of Circular dated 25.12.2005 but, since all the documents required for carrying out the mutation in her name were submitted by the petitioner only on 28.4.2011, the petitioner in this case would be required to pay interest @ 7% per annum with effect from 27.9.2007 to 28.4.2011, after excluding four months from the said period. The learned counsel appearing for the petitioner states that the petitioner is willing to pay the

aforesaid interest. Hence, the writ petition W.P(C) No.731/2012 is disposed of with the direction that the petitioner in this case shall pay cost as prevalent on 27.9.2007 along with interest @ 7% per annum from that date till 28.4.2011, after excluding four months from the said period.

12. The demand letter in terms of this order shall be issued by DDA within four weeks and in case any amount became due to the petitioner, that shall also be refunded along with the letter. If any amount is found due from the petitioners, that shall be paid by them within four weeks of receipt of the demand letter. The possession shall be handed over within four weeks thereafter.

Both the writ petitions stand disposed of.

V.K. JAIN, J

APRIL 18, 2013/rd