

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

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Date of Decision: 01.05.2013

+ W.P.(C) 7213/2003

SURAJ PRAKASH AND ORS.

..... Petitioner

Through: Shri Pradeep, Advocate for the petitioner
alongwith Mr. Surender Kumar Malik, son of the
petitioner.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through Shri Ajay Verma, Advocate for the
respondent.

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioners before this Court were occupying shops in Outram Line of Kingsway Camp. A scheme was prepared for redevelopment of Kingsway Camp area known as Kingsway Camp Rehabilitation Scheme. Besides, 233 shops on the main road there were 27 other shops in the area, 11 in Hudson Line, Kingsway Camp and 16 in Outram Line, Kingsway Camp. Initially, the redevelopment scheme was prepared by L&DO and later on it was transferred first to MCD and then to DDA.

2. While implementation of the aforesaid scheme to shops No.7 to 16 situated in Outram Line, which were on L&DO land were taken over and alternative plots measuring 50 square yards each were allotted to the occupants of those shops near Banda Bahadur Marg, DTC Depot by way of draw. The remaining six shops bearing shops No.1 to 6 were not taken over at that time since, they were not required for the purpose of the aforesaid scheme. Similarly, the shops on Hudson Line were also taken over and the occupants of those shops were allotted alternative plots in Hudson Line itself. Subsequently, in the year 1994, DDA required the remaining '6' shops in Outram Line for the purpose of pushing back shops No.1 to 62. The pushing back of those shops was necessary for the purpose of widening the road. The DDA, therefore, allotted alternative plots measuring 100 square yards each to the occupants of those 6 shops. Initially, DDA had given allotment only to three person but remaining three person then filed a writ petition where an order was passed by the Court for allotting plots to the petitioners before the Court and consequently plots measuring 100 square yards each came to be allotted to the occupants of remaining three shops as well.

3. The grievance of the petitioners before this Court is that they have been discriminated against DDA by allotting to them plots measuring 50 square yards each whereas, the occupants of those shops which were taken over in the year 1994 have been allotted plots measuring 100 square yards each. This is also the case of

the petitioner that since a policy decision had been taken by MCD to allot plots measuring 100 square yards each to the occupants of the shops whose shops were required as a part of implementation of the Kingsway Camp redevelopment scheme, they are entitled to plots measuring 100 square yards each.

4. A perusal of the documents filed by the petitioners with their rejoinder would show that a resolution No.243 dated 07.05.1971 was passed by the standing Committee of MCD for allotting shops measuring 100 square yards each to those whose shops were to be demolished. The said resolution reads as under:

“All the shops in Hudson Line are 15ft. Wide and, therefore, all the shop plots have been proposed as 15’ x 60’ i.e. 100 sq. Yds. With residential use at first floor and Barsati floor. All the shop plots have been adjusted at their present sites except a few shops falling under the proposed 100 ft. Master Plan road near Najafgarh drain. A few shop plots of the same size i.e. 15’ x 60’ have been added in the space made available by relocation of roads between the existing shops and at the ends to accommodate the affected shops.”

5. Mr. Verma informs that later, DDA took a decision in December 1987, to allot plots measuring 50 square yards each to the occupants of the shops in Hudson Line. It was pursuant to the said decision that the petitioners before this Court were offered plots measuring 50 square yards each, which they duly accepted by paying land premium in respect of plots measuring 50 square yards and later lease

deed were also executed in their favour. The allotment came to be made in the year 1989. When the remaining 6 shops were later on required by DDA in the year 1994 for the purpose of redevelopment of Kingsway Camp, for the purpose of pushing away the shops of the persons, whose shops were partly required for the purpose of widening of the road, DDA took a policy decision to allot plot measuring 100 square yards each to 3 shop keepers whose shops were initially required and later on in compliance of the order passed by this Court, the occupants of the remaining 3 shops were also allotted plots of same size.

6. The petitioners despite being aware of the resolution passed by MCD in its meeting held on 07.05.1971 accepted allotment of plots measuring 50 square yards without any demur or protest. Not only they paid the land premium and took possession of the plots which were allotted to them by the DDA, lease were also executed in their favour without any protest from them. Having accepted the allotment offered to them by DDA, it is not open to the petitioners to say that they should have been allotted plots measuring 100 square yards each in terms of the resolution passed by MCD on 07.05.1971. Moreover, in administrative decision taken by the MCD by way of a resolution does not bind DDA which is a statutory authority wholly independent on MCD. In any case, the petitioners having accepted allotment of plots measuring 50 square yards each are now estopped from claiming plots of a larger size.

7. As regards, the plea of discrimination, I find no merit in the plea taken by the petitioners. As rightly contended by the learned counsel for the respondent what has to be seen is as to whether any discrimination was made qua the petitioner at the time of allotment of plots measuring 50 square yards was made to them. Admittedly, there was no discrimination at that time since no one similarly situated to the petitioner before this Court was allotted a plot measuring more than 50 square yards. Therefore, it would not be correct to say that the petitioner have been discriminated again by not allotting plots measuring 100 square yards each to them.

8. In any case, if the petitioners were aggrieved on account of plots allotted to them being less than 100 square yards each, in contravention of the resolution passed by MCD, they ought to have come to Court at the time plots measuring 50 square yards each offered to them. They slept over the matter for as many as for 14 years and did not bother to come to the Court till the time DDA allotted plots measuring 100 square yards each to the occupants of certain other shops. Therefore, the petitioners are clearly guilty of laches, by not remaining vigilant for enforcement of legal right claimed by them.

There is no legible explanation given by the petitioner for not approaching the Court for as many as 14 years since the time 50 square yards each plots were offered to them and the allotment came to be accepted by them.

9. For the reasons stated above I find no merit in the writ petition and the same is hereby dismissed. There shall be no orders as to cost.

V.K. JAIN, J

MAY 01, 2013

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