

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

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Date of Decision: .13.05.2013

+ W.P.(C) 4642/2012 & CM 19150/2012 (for directions)

RAM LAKHAN SINGH

..... Petitioner

Through: Mr. Arbind Kr. Singh and Mr. Manish
Kumar, Advs.

versus

D.D.A.

..... Respondent

Through: Mr. Arun Birbal, Adv. for DDA

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

In an auction of plot held on 11.8.1994, the petitioner was the highest bidder in respect of a plot of land measuring 260.59 sq metres for a total premium of Rs.20,25,000/-. The petitioner deposited 25% of the land premium as the earnest money. A demand-cum-allotment letter dated 12.9.1994 was issued to the petitioner, requiring him to deposit the balance amount of Rs.15,18,766/- within a period of sixty days from the issue of the said letter. Admittedly, the petitioner did not deposit the aforesaid amount within the time stipulated in the demand letter. Vide his letter dated 11.11.1994, the petitioner requested DDA to extend the time for depositing the balance 75% land premium. Vide letter dated 20.3.1995, the DDA granted extension up to 31.3.1995 to the petitioner, to deposit the balance 75% land premium along with interest @ 25% per annum. However, the said letter dated 20.3.1995, was sent to DDA only on 3.4.1995. On receipt of the letter dated

20.3.1995, the petitioner, vide letter dated 10.4.1995, sought further extension of time. He also approached the Lt. Governor in this regard vide his letter dated 27.6.1995. Despite no extension of time having been granted by the DDA pursuant to his letters dated 10.4.1995 and 27.7.1995, the petitioner deposited the balance amount on 13.8.1996 demanded vide letters dated 20.3.1995, but did not deposit the interest on that amount with effect from 20.3.1995.

2. The plot which has been allotted to the petitioner was re-auctioned and sold to another person. Since the time for payment beyond 180 days could be extended only by the Government of India by way of relaxation of the DDA (Disposal of Nazul Land) Rules, 1981, the case of the petitioner was referred to Ministry of Urban Development for consideration and pursuant to the decision taken by the Ministry, another plot of land bearing number G-186, Prashant Vihar, measuring 122.40 square meters was allotted to the petitioner at the reserved price. A letter dated 3.8.2005 was issued to the petitioner requiring him to deposit the balance amount of Rs.8,97,192/-, calculated after deducting the amount which the petitioner had already deposited against the cancelled plot, within a period of 30 days from the date of the issue of the said letter. The petitioner, however, did not deposit the aforesaid balance amount of Rs.8,97,192/- and filed this writ petition on 18.7.2012, seeking direction to the respondent-DDA to allot and handover possession of plot no.C-3/9, Prashant Vihar, which was the plot originally allotted to the petitioner in the auction held on 11.8.1994 and to handover possession of the said plot to him. The alternative prayer made in the petition is to allot and handover possession of the alternative plot of comparable size to the petitioner in the same locality and at the same price at which the plot bearing number C-3/9, Prashant Vihar, Delhi was allotted to him.

3. Admittedly, the petitioner did not deposit the balance amount of Rs. Rs.15,18,766/- within the period of 60 days from the date of issue of the demand letter dated 12.9.1994. Therefore, the allotment of the plot no.C-3/9, Prashant Vihar, which was allotted to him in the auction, got cancelled on account of non-payment of the aforesaid amount. Though, DDA granted extension of time till 31.3.1995, acting upon the request made by the petitioner for extension of time, the said concession made by the DDA could not be availed by the petitioner on account of late dispatch of the said letter. Admittedly, the said letter dated 20.3.1995 was received by the petitioner on 8.4.1995. The date of receipt of the said letter has been mentioned by the petitioner in his letter dated 10.4.1995. Unfortunately, even on receipt of the letter dated 20.3.1995, the petitioner did not deposit the balance amount in terms of the said letter and the same amount came to be deposited more than one year and four months after the said letter was received by the petitioner and that too without interest for the period subsequent to 20.3.1995 on the balance amount. Vide letter dated 20.3.1995, DDA had granted time till 31.3.1995 i.e. extension of 11 days for depositing the balance amount. Even if the said extension of 11 days was to be worked out from 8.4.1995 when the letter dated 20.4.1995 was received by the petitioner, the said period expired on 19.4.1995. Therefore, by 19.4.1995, the petitioner ought to have deposited the balance amount along with interest for the period subsequent to 20.3.1995 @ 25% per annum. By not depositing the aforesaid amount in terms of the letter dated 20.3.1995, even within 11 days of the receipt of the said letter and retaining the balance amount with him upto 13.8.1996, the petitioner forfeited his right to possession of plot no.C-3/9, Prashant Vihar and DDA was justified in auctioning the aforesaid flat and selling it to another person. According to the learned counsel for the respondent, DDA had no authority to extend the time in making the balance payment beyond 180 days from the date of the issue of the notice meaning thereby

that even if DDA so wanted it could not have extended the time for deposit of the balance amount beyond 12.3.1995.

4. As regards Plot No. G-186, Prashant Vihar, since the petitioner did not avail the said allotment by failing to deposit the amount of Rs.8,97,192/- within a period of 30 days from the date of issue of the letter, the allotment of that plot already stood cancelled and the petitioner now cannot seek possession of that plot.

5. Yet another reason why no relief can be granted to the petitioner is that he is guilty of gross laches and delays in coming to the Court. It is true that the Constitution has not fixed any period of limitation for approaching the Court by way of a writ petition under Article 226, but, it is a settled proposition of law that in appropriate cases where the Court finds that the petitioner has been sleeping over his rights, has not bothered to come to the Court within the period of limitation prescribed for filing a suit once he got a cause of action to come to the Court and gives no plausible explanation for the delay in approaching the Court, he/she would be deemed to guilty of laches and the Court would refuse to extend its helping hand to such a negligent person.

In *State of M.P. v. Bhailal Bhai* AIR 1964 SC 1006, the Constitution Bench of Supreme Court considered the effect of delay in filing writ petition under Article 226 of the Constitution and held:

“17....It has been made clear more than once that the power to give relief under Article 226 is a discretionary power. This is specially true in the case of power to issue writs in the nature of mandamus. Among the several matters which the High Courts rightly take into consideration in the exercise of that discretion is the delay made by the aggrieved party in seeking this special remedy and what excuse there is for it. It is not easy nor is it desirable to lay down any rule for universal application. It may however be stated as a general rule that if there has been

unreasonable delay the court ought not ordinarily to lend its aid to a party by this extraordinary remedy of mandamus.”

In *State of Rajasthan v. D.R.Laxmi* 14 (1996) 6 SCC 445, the Supreme Court referred to *Administrative Law* by H.W.R. Wade (7th Edn.) at pp. 342-43 and observed: (SCC p.453, para 10)

“10. The order or action, if ultra vires the power, becomes void and it does not confer any right. But the action need not necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances.”

6. The demand-cum-allotment letter in respect of plot bearing number G-186, Prashant Vihar was issued to the petitioner on 3.8.2005. He approached this Court on 1.8.2012 i.e. after about 7 years from the issue of the said allotment letter. On receipt of the said letter dated 3.8.2005, the petitioner ought to have come to the Court, but despite that, he slept over the matter and was satisfied with making representations to DDA on 11.9.2005, 16.1.2007 and one or more representations. The petitioner, when his first representation dated 11.9.2005 did not yield any result, within a reasonable time, should have approached this Court for ventilation of his grievance. That, however, was not done, the petitioner could not have delayed in approaching the Court merely on the ground that he had been representing to DDA for as many as seven years. Hence, the petitioner is not

entitled to any relief considering the abnormal delay on his part in approaching the Court.

7. For the reasons stated hereinabove, I find no merit in the petition and the same is hereby dismissed. The petitioner shall be entitled to approach DDA for refund of such money as is refundable to him. There shall be no orders as to costs.

V.K. JAIN, J

MAY 13, 2013/rd