

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

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Date of Decision: 20.05.2013

+ W.P.(C) 5093/2012
VINOD KUMAR SINGH

..... Petitioner

Through: Mr. S.C. Phogat, Adv.

versus

D.D.A.

..... Respondent

Through: Mr. Kamal Nijhawan with Mr. Sumit Gaur,
Advs. for DDA

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

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court was allotted a flat bearing number 4369, on third floor in Pocket – 5 & 6, Sector-B, Vasant Kunj, New Delhi vide allotment letter number 125(15)/88/SFSVK-II/577. On payment of the price of the flat, the possession was given to him on 8.3.1994. Vide letter dated 22.8.2003, DDA called upon the petitioner to deposit a sum of Rs.42,321/-, towards charge for conveyance deed, since the aforesaid flat had been allotted to him on freehold basis. However, despite deposit of the aforesaid amount, the conveyance deed was not executed by DDA. The petitioner being aggrieved from the failure of DDA to execute the conveyance deed, despite his having deposited the requisite charges, is before this Court by way of this writ petition.

2. In its counter affidavit, DDA has admitted the allotment of the aforesaid flat to the petitioner as well as possession having been handed over to him on 8.3.1994. This is also an admitted position in the counter affidavit of DDA that the aforesaid flat was allotted to the petitioner on freehold basis and he deposited the amount of Rs.42,321/- required for execution of the conveyance deed in his favour and also submitted four sets of conveyance deed duly stamped from the Office of Collector of Stamps.

3. According to DDA, the letter dated 20.4.2004 was received by it from the Inspector LBS Section, Economic Offences Wing, Crime Branch seeking a certified copy of the file with respect to the allotment made to the petitioner on the ground that the said file was required in connection with investigation of an FIR which Delhi Police has registered. According to DDA, since no reply has so far been received by them from Crime Branch despite their writing to the said branch about the request of the petitioner for execution of the conveyance deed in his favour, they have not been able to execute the conveyance deed. It, however, appears from the counter affidavit filed by DDA that initially a second floor flat in Pocket-D Sector-I, Sarita Vihar was allotted to the petitioner in a draw of lot held on 14.12.1983 and a demand-cum-allocation letter was issued to him in this regard on 15.1.1984. The petitioner surrendered the said allocation vide his letter dated 9.8.1985 and also deposited Rs.1,000/- towards registration charges. He again applied for allocation of a flat and was allotted a second floor flat in Block G-15, Pocket GH 13, Paschim Puri was allotted to him, in a draw of lot held on 20.2.1987 and an allocation letter was issued to him on 13.3.1987. That allotment was also surrendered by the petitioner and again cancellation charges of Rs.1,000/- were deposited by him. He submitted yet another application of allocation of a flat and was allotted a second floor flat in Block-3, Pocket-10, Vasant Kunj, New Delhi in a draw of lot held on 31.12.1987 and an allocation letter bearing block date

8.10.1988/15.1.1988 was issued to him. The petitioner applied for change of category of the allotment from Category-II to III, but said request was rejected. On receipt of full payment in respect of the flat allocated to the petitioner in Vasant Kunj, a flat bearing number 4369, Third Floor, Sector-B-5 and 6, Vasant Kunj, New Delhi came to be allotted in a draw of lot held on 27.10.1993.

4. It thus appears that a suspicion has been created in the mind of Delhi Police/DDA on account of the petitioner's surrendering firstly the flat allotted to him in Sarita Vihar and then the flat allotted to him in Paschim Puri. In the absence of any material indicating that the petitioner had committed some forgery or played a fraud upon DDA, there would be no reason for withholding execution of the conveyance deed in favour of the petitioner. This is not the case of DDA that surrender of allocation firstly at Sarita Vihar and then at Paschim Puri and the subsequent allocations made to him were contrary to the policy of DDA. On the other hand, the case of DDA appears to be that such surrender was permissible and requisite charges in this regard were duly deposited by the petitioner on both the occasions. If that is so, DDA has no legal right to withhold execution of the conveyance deed of the flat allocated to the petitioner in Vasant Kunj unless there is an order issued by Delhi Police or by the concerned Court restraining DDA from executing the conveyance deed of the said flat in favour of the petitioner. This is not the case of DDA in the counter affidavit that any order has been issued to it by Delhi Police or by the concerned criminal Court, restraining it from executing the conveyance deed of the said flat in favour of the petitioner.

5. In these circumstances, the writ petition is allowed and the DDA is directed to execute the conveyance deed of the flat allotted to the petitioner, within eight weeks from today after calling the petitioner in its office, and verifying his identity as well as his being in possession of the flat in question. For the purpose of

verification in terms of this order, the petitioner shall appear before the Director (Housing) of DDA at 4 PM on 8.7.2013, along with proof of his identity as well as of his being in possession of the flat in question.

The writ petition stands disposed of with above directions.

V.K. JAIN, J

MAY 20, 2013/rd