

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

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Date of Decision: 25.04.2013

+ W.P.(C) 6897/2011

RAJBAL SINGH RATHI

..... Petitioner

Through Shri R.K. Saini, Advocate with Ms. Minal Sehgal,
Advocate for the petitioner.

versus

DDA

..... Respondent

Through Ms. Shobhana Takiar, Advocate for respondent/DDA.

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

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court got himself registered for allotment of a plot from Delhi Development Authority under its Rohini Residential Scheme, 1981. At the time of registration the petitioner disclosed two addresses, one was the address at which he was residing at the time of registration and the other was his permanent village address. The current address disclosed in the registration application was C4A/12C Janakpuri, New Delhi, whereas the permanent address disclosed in the registration form was Village & PO Gangnauli District Meerut. The case of the petitioner is that on his retirement from service, he shifted from C4A/12C Janak Puri address to his permanent address in Village & PO Gangnauli District Meerut

and vide letter dated 18.04.1991, he intimated the change of address to Delhi Development Authority. This is also the case of the petitioner that the change of address was again intimated to Delhi Development Authority vide subsequent letter dated 27.06.1993, in which a reference was also made to his earlier letter dated 18.04.1991. According to the petitioner, he did not receive any allotment letter from Delhi Development Authority so long as he was residing at the Janak Puri address disclosed in the registration application. Since, no allotment was forthcoming, the petitioner approached Delhi Development Authority in this regard and also visited its office to inquire about the status of his registration. He also submitted an application under the Right to Information Act seeking copies of the correspondence available on his file/record. On 11.03.2010, when the petitioner visited Delhi Development Authority office pursuant to a letter received from Deputy Director of Delhi Development Authority, the original documents were shown to him and photocopies of the entire file were provided to him. Thereupon, he came to know that he had been allotted plot No.054 in Sector No.24, Pocket No.6 of Rohini and the allotment letter was sent to him on 12.11.1991 at the Janak Puri address, which was returned back undelivered. The petitioner made subsequent representations to Delhi Development Authority for allotting a plot to him in its Rohini Residential Scheme. Since no allotment has so far been made the petitioner has filed a writ petition seeking a writ of certiorari, quashing the cancellation of allotment made to him and for a direction to DDA to make allotment of a similar plot in a developed Sector at the old rate along with interest @ 7 % per annum on the old rates as per the policy of DDA.

2. The petition has been contested by DDA. As per the case set out in the reply it is an admitted position that at the time of registration the petitioner had given two addresses one was the address of Janak Puri and the other was the permanent address of Village Gangnauli, District Meerut, U.P. This is also the case of DDA

that on allotment of a plot to the petitioner in the draw held on 27.03.1991 the demand cum allotment letter was issued to him and was sent to his Janak Puri address. The aforesaid letter carried a clause for automatic cancellation of the allotment in case payment was not made within the time stipulated in the said letter. As regard the case of the petitioner that he had intimated change of address to DDA vide letters dated 18.04.1991 and 27.03.1993, it is stated in the reply that the relevant record is not traceable despite best efforts made in this regard. This is also the case of DDA for no intimation of change of address is available on its record. The learned counsel for the respondent also states that the demand cum allotment letter sent to the petitioner at Janak Puri address was not received back unserved.

3. The petitioner has placed on record a copy of the letter dated 18.04.1991. Purporting to be written by him to DDA intimating the change of address and requesting DDA to note down his new address is Village Gnagnauli, District Meerut, U.P. The letter purports to have been delivered in the office of DDA vide diary No.00946. The petitioner has also filed a copy of the letter purporting to be written to the DDA on 27.06.1993, referring to his earlier letter dated 18.04.1991 and again requesting DDA to make correspondence at the new address which he had disclosed in the earlier letter as well as in the letter dated 27.06.1993. This is not the case of DDA that it had received letters other than the letter of the petitioner vide diary No.009446 and 018076. In the absence of any such averments from DDA there is no reason to reject the case of the petitioner that the change of address was duly intimated by him to DDA vide letter dated 18.04.1991 and vide letter dated 27.06.1993.

4. The contention of the learned counsel for the respondent is that since the demand cum allotment letter sent on 12.11.1991 was not received back that means

it was served at the Janak Puri address which the petitioner had disclosed at the time of registration itself, there was no occasion for DDA to send demand cum allotment letter at the permanent address disclosed in the application.

5. No material has been filed by DDA which would show that the demand cum allotment letter dated 12.11.1991 was actually served upon the petitioner. No certificate from the Post Office has been filed to show that the demand-cum-allotment letter sent to the petitioner at Janakpuri address was served upon someone residing in that house. In fact no postal receipt has been filed by DDA to show actual dispatch of the aforesaid letter to the petitioner. Since the petitioner had vide letter dated 18.04.1991 already intimated change of address to DDA, it is not acceptable that the letter sent on 12.11.1991 would have been delivered to him at the Janak Puri address. Even otherwise, it would be extremely difficult to accept that in a place like Delhi where land under the Rohini Residential Scheme was being allotted for DDA at a price which is much less than the prices prevalent in the market, a person who has got registration with DDA by depositing the registration money would not bother to deposit the balance amount despite receiving the allotment letter from DDA. Mr. Saini is right in submitting that if a person is not interested in obtaining an allotment from DDA he, on receipt of an allotment letter he would apply to DDA for refund of registration money already deposited by him but would certainly not sit idle, neither taking steps for obtaining allotment by deposit the balance amount nor seeking the refund of registration money already deposited by him.

6. For the reasons stated hereinabove, I am of the considered view that DDA was not justified in cancelling the allotment made to the petitioner and therefore, the petitioner is entitled to allotment of plot from DDA under its Rohini Residential Scheme.

7. Mr. Sarin, on instruction from the petitioner states that the petitioner is ready to pay the price of plot as on the date of filing of the writ petition i.e. on 20.09.2011. Therefore, the respondent DDA is directed to allot a plot to the petitioner by holding a mini draw in this regard within a period of four weeks and give possession to him within four weeks of his completing formalities, including deposit of premium.

8. Mr. Sarin requests that DDA be directed to make allotment to the petitioner in developed sector, by including such plots in the mini draw which is to be need pursuant to this order of the Court. The ground on which such a request is made by Mr. Saini is that the sectors in which plots were allotted in the year 1991 have now become developed sector and there is no reason for not allowing the benefit of the same to the petitioner, particularly when he paying the cost as prevailing on the date of filing the writ petition.

9. This issue came up for consideration before the Division Bench of this Court in **DDA Vs. Mata Prasad** [LPA No. 486/2012 decided on 8.4.2013]. In that case, the respondent in the LPA/ writ petitioner had applied for allotment of a residential plot under Rohini Residential Scheme of DDA in the category of Scheduled Caste applicants. However, the DDA, instead of including in Scheduled Caste category, included his name in General category of the registrants. Later his name came to be included in the category of Scheduled Caste applicants. Since no draw of lot was held for the petitioner, he filed a writ petition seeking allotment of flat from DDA. It was also decided by DDA to consider his for allocation in that category in the next draw of lot. The writ petition filed by him was disposed of with direction to DDA to hold a mini draw for allotment of flat to the writ petitioner. On an application filed by the respondent seeking modification of the order passed in the writ petition, the learned Single Judge of this Court directed DDA to hold mini

draw for allotting flat to the respondent in the appeal/ writ petitioner, out of whose flats which were available in those sectors which were available in the year 1990 when the entitlement of the respondent had matured. Being aggrieved from the aforesaid order, DDA filed an appeal. Allowing the appeal of DDA and setting aside the directions to include the plot in developed sector in the mini draw to be held for the respondent, the Division Bench, *inter alia*, held as under:

“5.....As regards allotment in a developed sector, the learned counsel for the respondent submits that since other persons whose turn matured in the year 1990 got plots in sector, which have since developed, he also should be allotted plot in a developed sector. We, however, find no merit in the contention made by the learned counsel for the respondent. While granting relief, the Court cannot be oblivious to the fact that though the respondent claimed that his term for allotment of plot in Scheduled Caster category matured in the year 1990, he waited till the year 2011 to bring his grievance before the Court. Nothing prevented the respondent from coming to the Court soon after his term had matured, for allotment of a plot. In our opinion, considering the fact that respondent approached this Court by way of a writ petition only in the year 2011, direction to issue a plot to him only in a developed sector cannot be justified and it would be for the DDA to allot a plot wherever it deems appropriate irrespective of whether it is so called developed sector or it is a new sector which is yet to be developed.”

10. I, therefore, find no merit in the contention of Mr. Saini for a direction to DDA to allot plot to the petition in developed sector. The writ petition stands disposed of in terms of this order.

V.K. JAIN, J

APRIL 25, 2013/ss