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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7266/2011

NARESH KUMAR MATTA

..... Petitioner

Through

Mr. Alok Kumar with Mr. Manisha
Agarwal with Mr. Neeraj Gupta,
Advocates

versus

DDA AND ANR

..... Respondents

Through

Mr. Arjun Pant, Advocate for R-1.

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Date of Decision: 03rd July, 2013.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****J U D G M E N T****MANMOHAN, J (Oral):**

1. Present writ petition has been filed under Article 226 of the Constitution of India for the following reliefs:-

“a) Issue a writ in the nature of mandamus or any order or any appropriate direction commanding the Respondent authorities i.e. Respondent No. 1 & 2 to withdraw the letter dated 17.05.2010 demanding a sum of Rs. 10,59,243/- for conversation of LIG Flat No. 61-E, DB, Block, Hari Nagar, New Delhi and;

b) Issue a writ in the nature of mandamus or any order or any appropriate direction directing the Respondent to

consider and allow the application for conversion of flat No. 61-E, DB Block, Hari Nagar, New Delhi – 110 064 ;

c) The Respondent be directed to pay a sum of Rs. 1,00,000/- to the Petitioner as compensation for the harassment, inconvenience and agony suffered by the Petitioner on account of the failure and omission and illegal acts and demands of the Respondent.

d) Pass such other or orders, and as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The admitted facts of the present case are that Mr. Mohinder Kumar was allotted a flat bearing No. 61-E, DB Block, Hari Nagar, New Delhi as an evictee of the ARP Quarters, Motia Khan. On 19th November, 1983 possession letter of the said flat was issued to Mr. Mohinder Kumar without issuing the allotment-cum-demand letter. Subsequently, after finalisation of the cost of the flat, a demand-cum-allotment letter was issued on 4th November, 1985.

3. It is the case of the respondent-DDA that the allottee did not pay either the initial amount or the monthly installments of the flat despite issuance of show cause notice dated 19th August, 1987.

4. On 6th June, 2005, the flat in question was agreed to be sold by Mr. Mohinder Kumar to the petitioner.

5. On 21st July, 2005, petitioner applied for conversion of flat in question from leasehold to freehold by furnishing the required documents including General Power of Attorney, Agreement to Sell etc.

6. It is the case of respondent-DDA that on receipt of petitioner's application for conversion, the case file was referred to Accounts Branch

(Housing) DDA where after examination it was found that the allottee had not deposited the initial amount, i.e., Rs. 11,812/- for the flat in question and had also not paid 120 monthly instalments @ Rs. 495.90 w.e.f. 1st December, 1983.

7. Since the allottee had not deposited the initial amount, the Accounts Branch (Housing) DDA worked out the current cost as of August, 2005 to the tune of Rs. 7,41,515/- which was approved by the competent authority. After deducting the amounts paid by the petitioner, the principal amount of Rs.5,21,855/- was due and payable as on 01st August, 2005.

8. After adding penal rate of interest and interest on interest from 2005 to 2010, respondent-DDA informed the petitioner by a letter dated 17th May, 2010 that Rs.10,59,243/- was payable.

9. Mr. Alok Kumar, learned counsel for the petitioner submits that the petitioner cannot be saddled with penal rate of interest as well as interest on interest for the period 2005 to 2010 as according to him this delay was on account of DDA in informing the petitioner of the amount that was due and payable.

10. Mr. Arjun Pant, learned counsel for respondent-DDA states that delay in intimating the cost of the flat was on account of re-examination of cost by a Senior Accounts Officer (WZ)/G.

11. Having heard learned counsel for the parties, this Court is of the view that no undertaking of the State can take five years to determine the cost of a flat and then saddle the petitioner with penal rate of interest as well as interest on interest for the said delay.

12. Delay of five years in computing the cost of a flat is totally incomprehensible. This Court is of the opinion that the Law Commission

should consider preparation of an enactment to recover damages/ compensation from officers who take unduly long time in taking decisions or do not take a decision.

13. Keeping in view the aforesaid conclusion, the impugned letter dated 17th May, 2010 issued by the respondent-DDA demanding a sum of Rs. 10,59,243/- for conversion of flat is quashed. Petitioner is directed to pay Rs. 5,21,855/- (the amount calculated by the respondent-DDA as due and payable as on 1st August, 2005), along with simple interest @ 8% per annum from 01st August, 2005 till the date of payment. The said amount is directed to be paid within a period of six weeks. Upon deposit of the said amount, respondent-DDA is directed to allow the petitioner's application for conversion of Flat No. 61-E, DB Block, Hari Nagar, New Delhi within a period of three months.

14. With the aforesaid directions, present petition stands disposed of.

MANMOHAN, J

JULY 03, 2013

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