

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No. :- WP (C) No. 3310/2023
CM No. 8009/2023

**Veany Sharma, Age 66 years,
D/o Sh. Om Parkash Sharma,
W/o Dr. Shanti Swroop Sharma,
R/o H. No. 649-F, Sarwal,
Laxminagar, Jammu UT of J&K.**

.....Petitioner(s)/Appellant(s)

Through: Mr. Vikas Magotra, Advocate.
Mr. Atharv Mahajan, Advocate.

Vs

1. **UT of J & K Th. Respondent(s)**
Commissioner/Secretary to Govt.,
Housing and Urban Dev. Deptt.,
J&K Govt., Civil Secretariat,
Jammu;
2. **Jammu Development Authority,**
Jammu Th. Secretary, Jammu
Dev. Authority, Jammu,
UT of J&K;
3. **Vice Chairman,**
Jammu Development Authority,
UT of J&K.

Through: Mr. Adarsh Sharma, Advocate.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

30.12.2023

1. Through the medium of instant petition, petitioner seeks the following reliefs:-

- (i) *Writ of mandamus commanding the respondent Nos. 2 and 3 to allot the alternate plot in lieu of the plot allotted to petitioner being plot No. 128 measuring 40'x80' situated at Bantalab Housing Colony, Jammu vide LOI No. JDA/Plots/B.T./40'x80'/36/37 dated 26.11.1990;*
- (ii) *Further Writ of mandamus commanding the respondents to execute the Lease Deed and handover the possession to petitioner after making the alternate allotment;*
- (iii) *Any other writ, additional/alternate relief, which this Hon'ble Court may deem fit and proper in the given facts and circumstances of the case, may also be granted in favour of the petitioners in the interest of justice."*

2. The facts leading to the filing of the instant petition are that a plot being plot No. 128 measuring 40'x80' situated at Bantalab

Housing Colony, Jammu has been allotted to the petitioner vide LOI No. JDA/Plots/B.T./40'x80'/36/37 dated 26.11.1990. It is submitted that in pursuance of the Notification No. JDA/Plots/BT/10-19 dated 08.02.1990, the petitioner has been found successful in course of draw of lots held on 05.11.1990. The petitioner in pursuance of aforementioned Communication dated 26.11.1990 deposited/paid 50% premium and, accordingly, a Communication/allotment came to be issued being No. JDA-Plots/BT/40'x80'/36/343-45 dated 27.05.1991, whereby petitioner has been informed that in consideration of having paid 50% premium, the plot No. 128 in Sector-X has been allotted to petitioner, however, the agreement and the possession of the plot will be handed over only after full premium is paid as per clause-9 of the Advertisement Notice. Thereafter, the petitioner paid the entire amount, i.e., Rs. 40,000/- (Rupees forty thousand only). The respondent No. 2 thereafter made a request to the Sub-Registrar Mufasal, Jammu for registration of the Lease Deed in favour of the petitioner vide Communication No. JDA-Plots/BT/40'x80'/36/79-80 dated 04.06.1993. Thereafter, Lease Deed between respondent No. 2 and petitioner was executed on 24.05.1993 and same was registered before the Sub-Registrar Mufasal, Jammu on 02.11.1993.

3. Learned counsel for the petitioner submits that after execution and registration of the aforementioned Lease Deed, the respondent-JDA failed to handover the possession of the plot allotted in favour of the petitioner with regard to which, the aforementioned Lease Deed executed and registered. Thereafter, the petitioner started approaching the respondents for handing over the possession of the

plot, which stands allotted in favour of the petitioner, but despite numerous visits/requests to respondents, the possession of requisite plot has not been handed over to the petitioner.

4. The petitioner compelled by the uncalled for approach of the respondents also paid the visit in the said purposed colony, where the aforementioned plot being plot No. 128 had been allotted in favour of the petitioner. The petitioner was shocked to know that there is nothing on the ground in the shape of plot etc. The petitioner thereafter again approached the JDA and brought to the notice of all the concerned about the position existing on the ground.

5. The petitioner has been assured that the requisite plots would be carved out soon and, accordingly, the possession shall be provided immediately thereafter to him. Unfortunately after lapse of decades together, nothing substantial has come out on the ground and the fate of petitioner with regard to the plot in question is hanging fire. It is submitted that petitioner even filed number of representations from time to time with regard to this, but all in vain.

6. It is the specific case of the petitioner that he has been allotted the plot referred supra and he has also paid the entire amount, but despite all this, he has not been provided the plot till date.

7. The learned counsel submits that there is nothing to be done on the part of petitioner, as he has completed all the requisite formalities and deposited the full and final premium with regard to this plot and now, he is made to suffer for none of his fault.

8. Feeling aggrieved of the same, the petitioner has filed the instant petition for redressal of his grievance and seeks the reliefs prayed for amongst others on the following grounds:-

- a) *That the relief prayed in the instant petition is required to be granted on the sole ground that at one hand a residential plot allotted in favour of petitioner by a draw of lots and on the other hand petitioner has already paid the entire amount/premium mentioned supra and still is not in a position to get the possession of the plot;*
- b) *That the relief prayed in the instant petition is required to be granted on the ground that petitioner has spent her entire hard earned money against the plot in question and still the possession of the same has not been delivered to her. The petitioner at present is a senior citizen and being a senior citizen regularly visiting the offices of respondents for seeking redressal of her grievance;*
- c) *That it is pertinent to submit over here that the respondent JDA has already allotted the alternate plots in favour of persons who are similarly situated as of the petitioner. That the petitioners in the writ petitions viz., OWP No. 1748 of 2018 titled "Rohit Gupta V/s State of J&K", OWP No. 2185 of 2017 titled "Sonve Sharma V/s JDA and Anr.", OWP No. 1749 of 2018 titled "Sarita V/s State of J&K and Ors.", OWP No. 2204 of 2017 titled "Rajeev Kumar V/s J&K State and Anr.", OWP No. 1702 of 2018 titled, "Himsikha Jaswal V/s JDA and Anr.", OWP No. 1701 of 2018 "Sushma Sharma V/s JDA and Anr." had approached to the Court for seeking directions to allot the alternate plots. The Hon'ble Court in these writ petitions directed the JDA to consider their representations. However, the petitioners in the above referred writ petitions filed the contempt petitions also. The Jammu Development Authority ultimately allotted the alternate plots to the aforementioned petitioners. The compliance report in CCP(S) No. 353/2019 in writ OWP No. 1702/2081 titled "Himsikha Jaswal V/s Sh. Pawan Singh Rathore", CCP(S) No. 348/2019 in OWP No. 1701/2081 titled "Sushma Sharma Vs. Sh. Pawan Singh Rathore and Anr." and CCP(S) No. 377/2019 in OWP No. 7748-2018 titled "Rohit Gupta V/s Sh. Pawan Singh Rathore and Anr." came to be filed before the Hon'ble High Court;*
- d) *That by not redressing the grievance of the petitioner is amount to colourable exercise of power on the Part of respondents;*
- e) *That by not granting the alternate plot in lieu of the allotted plot at the earliest, is amount to violation of fundamental and legal rights of the petitioner enshrined in part-III of the Constitution*

of India, as right to live is a fundamental right of every citizen;

f) That the petitioner craves leave from this Hon'ble Court to make/urge rest of the submissions at the time of hearing."

9. Learned counsel for the petitioner submits that the petitioner would feel satisfied, if the instant writ petition is disposed of by directing the respondents to treat the writ petition as representation and accord consideration to the same strictly under rules and as per law within some reasonable period.

10. Notice.

11. Mr. Adarsh Sharma, Advocate waives notice on behalf of the respondents-JDA. He submits that the respondents have no objection, if the instant writ petition is directed to be treated as representation and can be decided strictly in accordance with the rules and as per law.

12. With the consent of learned counsel for the parties, the instant writ petition is disposed of, at the threshold, with a direction to the respondents to consider the claim of the petitioners by treating this writ petition as representation and take a decision thereon, strictly under rules and as per law and pass consideration order within a period of six weeks from the date a certified copy of this order alongwith complete set of writ petition are made available to the respondents.

13. **Disposed of**, as above alongwith connected application.

(Wasim Sadiq Nargal)
Judge

JAMMU
30.12.2023
Ram Krishan