

Court No. - 2

Case :- WRIT - C No. - 3207 of 2022

Petitioner :- Kallu

Respondent :- State Of U.P. Thru. Prin. Secy. Housing And Urban Planning, Civil Sectr. Lko. And Others

Counsel for Petitioner :- Arun Kumar Dwivedi, Ashish Chaturvedi

Counsel for Respondent :- C.S.C., Puneet Chandra

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Neeraj Tiwari, J.

1. Heard Sri Ashish Chaturvedi, counsel for the petitioner, learned standing counsel for respondent no.1 and Sri Puneet Chandra for respondents no.2 and 3.

2. The petitioner has approached for writ of mandamus directing the respondents to execute sale deed in respect of Plot No.18D/K-39, measuring 250 sq. meters situated at Vrindavan Yojana-4, Rabareilly Road, Lucknow in favour of the petitioner within a specified time frame.

3. The case of the petitioner is that he was co-owner of agricultural land which was acquired by the respondents under the provisions of the U.P. Awas Evam Vikas Parishad Adhiniyam, 1965. Under a policy decision of U.P. Awas Evam Vikas Parishad, the affected land owners were entitled to allotment of 5% developed land for residential use. The case of the petitioner is that the Parishad finalised the plots by draw of lots held on 28.11.2014. Thereafter, the petitioner was asked to deposit Rs.5000/- and he deposited the said amount by demand draft on 29.11.2014. Thereafter, despite repeated reminders, the Parishad did not execute sale deed in favour of the petitioner in respect of the plot which was allotted in his favour by the process of draw of lots, compelling him to file the instant petition.

4. On 27.05.2022, a Coordinate Bench, while entertaining the writ petition left it open to the respondents to execute sale deed in favour of the petitioner if there was no legal impediment. It seems that in pursuance of the aforesaid liberty granted to the respondents, they issued a notice dated 4.08.2022 to the petitioner requiring him to deposit a total sum of Rs.2,46,919/- within three months, failing which the allotment would be cancelled. The petitioner deposited a sum of Rs.2,47,000/- with the Parishad on 22.08.2022. Another sum of Rs.13,530/- was deposited by the petitioner towards miscellaneous charges as stipulated in the notice dated 4.08.2022. However, the sale deed has not been executed by the Parishad so far.

5. It is not disputed by learned counsel appearing for the Parishad that the petitioner has deposited the entire amount stipulated in the notice dated 4.08.2022. He submits that according to his instructions, the petitioner has raised illegal constructions over the allotted land and unless the same is removed, the Parishad would not execute the sale deed.

6. Learned counsel for the petitioner vehemently disputed the submission made in this regard by counsel for the Parishad. He has invited our attention towards an affidavit dated 3.06.2022 given by the petitioner before the Housing Commissioner wherein it is stated that the petitioner has not raised any illegal construction and that he would have no objection in case the same is demolished.

7. Counsel for the petitioner clarified that although in the said affidavit it is mentioned that the petitioner had not raised any illegal construction but according to his instruction, no construction at all whether legal or illegal has been raised by the petitioner over the said plot and, therefore, the petitioner would also have no objection in case any construction existing over the plot is demolished.

8. Counsel for the Parishad fairly concedes that there is no condition in the allotment order or any where else that sale deed would not be executed in case any illegal construction is in existence over the plot allotted to a displaced tenure holder.

9. Having regard to the aforesaid undisputed factual position, we dispose of the instant petition with the following directions:-

(a) The Parishad will execute sale deed/conveyance deed in favour of the petitioner in pursuance of notice dated 4.08.2022 within a period of four weeks from the date of communication of the instant order.

(b) It shall be open to the Parishad to demolish the constructions existing over the plot if it is of the opinion that the same is illegal and contrary to law.

(c) The petitioner will not create any hindrance in demolition of constructions existing over the allotted land.

10. It goes without saying that the petitioner will extend full cooperation in execution of sale deed and will complete all documentary formalities as may be required for the said purpose.

(Neeraj Tiwari, J.) (Manoj Kumar Gupta, J.)

Order Date :- 27.10.2023

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