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

Judgment delivered on: 10th April, 2015

+ **W.P.(C) 2152/2013**

SWAPAN KOHLI

..... Petitioner

Represented by: Mr. Nanda Kinra,
Advocate.

Versus

D.D.A.

..... Respondent

Represented by: Mr.Ashutosh Kaushik for
Ms.ManikaTripathy
Pandey, Advocates.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CM No. 6070/2015 (U/s 151 CPC)

Vide the instant application, the applicant/petitioner seeks directions to fix the matter on actual date whereas the present petition was admitted vide order dated 04.03.2014.

Keeping in view the averments made in the instant application, the application is allowed.

Consequently, with the consent of the parties, the petition is taken up for hearing.

W.P.(C) 2152/2013

1. Vide the present petition, petitioner seeks directions to issue demand-cum-allotment letter in accordance with the draw held on 18.04.2011 for Flat No. 103, Yamuna Block-5, GRP 4, First Floor Category-2 at Vasant Kunj.
2. During the arguments, learned counsel appearing on behalf of the respondent/Delhi Development Authority (DDA) submits that if petitioner agrees, flat can be allotted to him in Dwarka area. The said offer was made by the respondent earlier also, as has been recorded in order dated 21.08.2013.
3. The case of the petitioner is that he was allotted a flat in Vasant Kunj as noted above in the year 2012, however, possession of the same was not given to him by the respondent for the reason the said flat was meant for the Reserved Category and the petitioner belongs to General Category. During the pendency of the petition, due to the said reason and in lieu of that, respondent DDA offered another flat in Dwarka to the petitioner somewhere in 2013, to which he declined.
4. Learned counsel for the respondent submits that the mistake which the respondent department had committed was not even pointed out by the petitioner at that time, therefore, he is liable to pay the rates prevalent in the year 2013 when another flat in Dwarka area was allotted in his favour.

5. Given the facts and circumstances of the case, it is clear that there was no fault of the petitioner that in the draw held on 18.04.2011, the respondent wrongly allotted a flat meant for the Reserved Category, therefore, he is liable to pay the amount applicable on 18.04.2011 only. The allotment was made to the petitioner in the year 2011, though the possession of the same was not given by the respondent for the reason mentioned above. Whereas, similarly situated persons were allotted flats in the year 2011 itself at the rates prevailing at that time. The respondent cannot be allowed to take benefit of its own wrong and poor petitioner cannot be burdened for higher rates when he is not at fault. Now, the respondent cannot insist upon the petitioner to pay the charges prevalent in the year 2013 when another flat in Dwarka area, in lieu of earlier flat, was allotted to him. Hence, this Court finds no substance in the submissions made by the learned counsel for the respondent. The same are rejected.

6. In view of the above, I direct the respondent DDA to allot a flat to the petitioner acceptable by him in Dwarka area within a period of eight weeks from today at the rates applicable on 18.04.2011 when the petitioner was allotted a flat in Vasant Kunj.

7. The present petition is allowed on above terms with no order as to costs.

SURESH KAIT, J.

APRIL 10, 2015
Sb/RS