

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C) No.4189/2013**

Decided on : 22nd May, 2015

SUSHILA PAREEK Petitioner
Through: Mr. Dilip Singh, Advocate.

Versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through: Ms. Manika Tripathy Pandey, Advocate.

CORAM:
HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (ORAL)

1. This is a writ petition filed by the petitioner for issuance of a writ, order or directions to quash the order of cancellation passed by the respondent/DDA by virtue of which allotment of plot No.87, Pocket 21, Sector 24, Rohini was cancelled.

2. A writ of mandamus has also been sought to direct the respondent/DDA to allot the aforesaid plot No. 87, Pocket 21, Sector 24, Rohini or a similarly situated plot in a developed sector to the appellant under the Rohini Scheme-MIG and deliver the possession thereof.

3. Briefly stated the facts of the case are that the husband of the petitioner, Pokhar Mal Pareek, got himself registered for allotment of a plot on 30.3.1981 under the Rohini Residential Scheme for MIG category. On 10.10.1988, the petitioner's husband passed away; however, no intimation about his death was given to the respondent/DDA till 1997. On 20.10.1993, the respondent/DDA allotted a plot No.87, Pocket 21, Sector 24, Rohini but the petitioner claimed that no letter or intimation regarding allotment had been received by her. In the month of July, 1997, the petitioner claims to have visited the office of the respondent/DDA where she learnt that an allotment was made against the registration number of her husband and she was asked to get her name mutated in place of the name of her husband. On 1.8.1997, the petitioner gave a letter at the counter of the respondent/DDA for mutation of her name and showed her willingness for making the payment of the plot but nothing was heard from the respondent/DDA. On 3.5.2001, the petitioner was asked to deposit certain papers so that the process of mutation could be completed. She claims that she again expressed her willingness to deposit the amount demanded by them. Thereafter, she approached the Urban Development Minister and on 27.3.2004 a legal notice was

issued to the respondent/DDA for restoration of the plot and since nothing was heard by her from the respondent/DDA, she kept on visiting the office of the respondent/DDA from 2008 to 2011 and finally in 2013, she filed the present petition. It has been stated that the respondent/DDA be directed to restore the flat allotted to her husband in the earlier draw held on 20.10.1993 or a flat in the similar category in lieu thereof.

4. So far as respondent/DDA is concerned, it has filed its reply/affidavit wherein it has claimed that Pokhar Mal Pareek, husband of the petitioner was allotted a plot on 20.10.1993 under the aforesaid Scheme. Since the price of the plot was not deposited, it resulted in cancellation and was allotted to a next person waiting as a registrant and, therefore, the possession of the plot has been handed over to one Subhash Chander Pahwa in whose favour the lease deed has also been executed on 23.1.2007. It has been stated by the respondent/DDA that so far as the mutation is concerned, that is done only for the purpose of refund of the registration amount and not for the purpose of allotment. It has also been stated by the respondent/DDA that at present, the file of allotment in respect of the husband of the petitioner is not traceable but on merits, it has denied that the petitioner is entitled to any allotment.

5. I have heard the learned counsel for the parties and have also gone through the record.

6. Ms. Manika Tripathy, the learned counsel for the respondent/DDA has opposed the prayer in the petition on the ground of inordinate delay and laches. It has been stated by her that the petitioner has been grossly negligent in coming to the court after considerable length of time and therefore, the present writ petition is not maintainable. In this regard, it has been contended by the learned counsel that it is not disputed that Pokhar Mal Pareek died in the year 1988, therefore, the factum of his death ought to have been intimated to the respondent/DDA sometime in the year 1988 or 1989 itself but the petitioner kept silent in this regard. It is only in July, 1997, that is, almost after nine years that the petitioner has approached the respondent/DDA for mutation of her husband's registration that she intimated about the death of her husband. It has been contended that the petitioner has not given any reason as to why she kept silent for a period of nine years not informing about the factum of death of her husband. It has also been contended that from 1997 to 2004, when the notice is purported to have been given, there is again a delay in pursuing the matter with the respondent/DDA except one or two dates

when she is claiming herself to have visited the office of the respondent/DDA. From 27.3.2004 when the notice was given to the respondent/DDA, it has again taken the petitioner almost a period of nine years to approach the court. Though in between she claims to have visited the office of the respondent/DDA but there is no proof placed by her on record in this regard.

7. The learned counsel for the petitioner has not been able to controvert the submissions made in this regard by the learned counsel for the respondent.

8. I have carefully considered the record. There is absolutely no denying of the fact that the writ petition of the petitioner is hit by inordinate delay and laches, in action and gross negligence on her part. This delay has occasioned not only at one stage but almost at every stage. Firstly, the delay has taken place in intimating about the factum of death of the husband of the petitioner. This delay is of nine years as Pokhar Mal Pareek had died on 10.10.1988 but the intimation regarding his death was given in the year 1997. The learned counsel for the petitioner has submitted that the petitioner was not aware about the registration of the plot done by her husband. Even if it is assumed to be correct, the

petitioner has not given any details as to how and when she learnt about this fact that her husband has booked a plot at Rohini under the residential scheme. All these details ought to have been given by her, which are missing.

9. The second stage of delay is from 1997 till the time the notice was given to the respondent/DDA on 27.3.2004. This time, delay is of almost 6-7 years where no concrete action seems to have been taken by the petitioner to redress her grievance except that she kept on visiting the office of the respondent/DDA couple of time and is stated to have expressed her willingness to pay the price of the plot. Even if the benefit of doubt of initial delay of nine years is given to the petitioner, still after legal notice having been given in the year 2004, there is absolutely no justification for the petitioner to have waited till 2013 before filing the present writ petition. This delay cannot be simply explained in one sentence that she had been visiting the office of the respondent/DDA and meeting officials when absolutely no proof of the same has been placed on record. Moreover, a person is not expected to wait endlessly for getting a positive reply from an officer or a department. An effort is only to be made within a reasonable time and if it does not yield result, then

processes of law must be availed of. On the contrary, it seems that the petitioner has been sleeping over her rights and has been grossly negligent, therefore, by allowing this writ petition, court will be only paying premium on gross negligence, inordinate delay and indolent behaviour of the petitioner. This cannot be permitted to be done.

10. For the aforesaid reasons, I feel that the present writ petition is hopelessly barred by laches and inordinate delay and accordingly, the same is dismissed.

V.K. SHALI, J.

MAY 22, 2015
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