

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

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Date of Decision: .15.05.2013

+ W.P(C) No.15188/2006

PRAKASH G TAHIL RAMANI Petitioner

Through: Mr. R.K. Saini, Advocate

versus

DDA

..... Respondent

Through: Mr. M.K. Singh, Adv. for DDA

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The original petitioner late Shri Prakash G. Tahil Ramani got himself registered for allotment of a flat from DDA under its New Pattern Registration Scheme, 1979 (NPRS-1979). In the application form, he disclosed his residential address to be II-B/74, Lajpat Nagar, New Delhi-24. In a draw of lot held on 30.7.2003, he was allotted an MIG Flat no.126, 3rd Floor, Pocket-I, Dwarka and the allotment-cum-demand letter sent to him at the residential address disclosed in the registration application was received back unserved with the endorsement “*no such person*”. The allotment made to him, therefore, stood cancelled on account of non-payment of the price of the flat.

2. The case of the petitioner is that vide application dated 16.9.1985, he had intimated change of his residential address to DDA. On the representations made by the petitioner, another Flat bearing number 544, 3rd Floor, Pocket-A, Phase-II,

Sector 17-A, Dwarka was allotted to late Shri Prakash G. Tahil Ramani in a draw of lot held on 29.8.2005. He was asked to deposit the old cost of the flat along with applicable interest subject to current cost of the flat. The possession of the subsequently allotted flat was delivered to late Shri Prakash G. Tahil Ramani on 18.5.2006.

3. The grievance of the petitioner is that computation of cost by DDA in respect of subsequently allotted flat was highly unreasonable and contrary to its circular dated 30.9.2005 which was in operation at the relevant time. According to the petitioner, as per the policy of DDA they should have charged 7% interest from the petitioner since it was their own fault in not sending the demand-cum-allotment letter of the initially allotted flat to him at the permanent address which he had disclosed to DDA. The petitioner is, therefore, seeking a direction to respondent-DDA to calculate the cost of the subsequently allotted flat as per the rates applicable on the date of holding first draw i.e. 30.7.2003. He is also seeking change of mode of payment since he wants to pay cost of the flat on cash down basis instead of hire-purchase basis.

4. The original petitioner late Shri Prakash G. Tahil Ramani died during pendency of this writ petition. His legal heirs under the law of succession application to him did not come forward seeking impleadment as the petitioner in this case and one Smt. Sharda Bhagat was substituted in his place vide order dated 7.1.2013 on the strength of the registered Will dated 20.11.2006 executed by late Shri Prakash G. Tahil Ramani in her favour.

5. It is an admitted position that Smt. Sharda Bhagat, who has been substituted as the petitioner in this case purchased the subsequently allotted flat from late Shri Prakash G. Tahil Ramani vide documents including registered Will dated

20.11.2006. Vide the said Will dated 20.11.2006 made the following bequest was made:

“Whereas the Testator is the owner and in possession of DDA built-up MIG flat bearing no.544 (Hire Purchase), on Third Floor, Sec-17, Pkt-A, Phase-2, situated at Dwarka, Delhi, with the lease hold rights under the said flat.

Whereas I hereby bequeath that after my death the above mentioned property shall go and devolve to Smt. Sharda Bhagat wife of Shri Dinesh Bhagat r/o CA-3A, Shalimar Bagh, New Delhi, he/she will be sole and absolute owner of the above mentioned property and my other heirs, successors, executors and assigns etc. shall have no rights interest whatsoever to the said property. In case any other person/ persons raises any objection it will be considered as NULL AND VOID.

6. It would thus be seen that only right, title and interest of late Shri Prakash G. Tahil Ramani in Flat bearing number 544, 3rd Floor, Pocket-A, Phase-II, Sector 17-A, Dwarka was bequeathed to Smt. Sharda Bhagat vide Will dated 20.11.2006. The remaining estate of the deceased was not bequeathed to her. Obviously, Smt. Sharda Bhagat would have purchased the flat in question from late Shri Prakash G. Tahil Ramani at a particular price. The price paid by late Shri Prakash G. Tahil Ramani to DDA in respect of the above referred flat had absolutely no bearing on the sale consideration which late Shri Prakash G. Tahil Ramani had to pay to DDA. In the event of the writ petition being allowed, the amount refundable to late Shri Prakash G. Tahil Ramani can be paid by DDA to his legal heirs under the law of succession applicable to him and not to Smt. Sharda Bhagat, bequest to whom is confined to the right, title and interest of late Shri Prakash G. Tahil Ramani in Flat No. 544, 3rd Floor, Pocket-A, Phase-II, Sector 17-A, Dwarka. Therefore, in my view, Smt. Sharda Bhagat has no *locus standi* to seek the reliefs which have been sought in the present writ petition. It is only the legal heirs of late Shri Prakash G. Tahil Ramani who can seek refund of

the excess amount alleged to have been paid by late Shri Prakash G. Tahil Ramani to DDA towards costs of the Flat No. 544, 3rd Floor, Pocket-A, Phase-II, Sector 17-A, Dwarka.

7. For the reasons stated hereinabove, the writ petition is dismissed. There shall be no orders as to costs.

V.K. JAIN, J

MAY 15, 2013

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