

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

+ **W.P.(C) No.2938/2014**

Decided on : 21st April, 2015

SUBHASH CHANDERPetitioner
Through: Mr.K.K. Sharma, Advocate.

Versus

THE VICE CHAIRMAN, DDA & ANR.Respondents
Through: Ms.Manika Tripathy Pandey,
Advocate.

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

V.K. SHALI, J.

1. This is a writ petition filed by the petitioner seeking a direction that the respondents should allot flat No.667, 2nd Floor, Sector-A-10, Pocket-2, Group-I, Narela, Delhi or in any other LIG flat of the same category under the New Pattern Registration Scheme (NPRS) 1979 on the same terms and conditions on which the earlier flat was allotted to him.

2. Briefly stated the facts of the case are that the petitioner had got himself registered under NPRS-1979 for allotment of LIG flat vide Application No.Z138835 and Registration No.42065. He was assigned priority No.38161. The petitioner made a request on 24th July, 1998 that

his address be changed to B-990, **Shastri Nagar**, near Hanuman Mandir, Delhi-52 from G-15, J.J. Colony, Wazirpur, Delhi. And the same was duly acknowledged by the respondents/DDA vide letter dated 10.08.2008. On 11th Feb 2000 the respondents held a draw and allotted a flat bearing No.667, 2nd Floor, Sector-A-10, Pocket-2, Group-I, Narela, Delhi to the petitioner herein. It is alleged that the demand-cum-allotment letter with the block dates 30th March to 13th April, 2000 was issued to the applicant at the address B-990, **Shakti Nagar**, Near Hanuman Mandir, Delhi-52 but the same came undelivered. It is averred by the petitioner that having received no intimation for a long period of time from the respondents, he vide letter dated 9.03.2006 sought enquiry about the status of the registration of his flat. In response to the aforesaid query the petitioner was intimated that a LIG Flat bearing no. 667, 2nd Floor, Sector-A-10, Pocket 2, Group-1, Narela, Delhi had been allotted to him but due to in action on the part of the plaintiff the same stood cancelled vide letter dated 25.04.2006. On 11th May, 2006 the petitioner took up the matter with the respondent, intimating them that he had not received the allotment-cum-demand letter at his correct address as the name of the colony was wrongly mentioned as Shakti Nagar instead of

Shastri Nagar and therefore inadvertently he could not deposit the money. It is alleged by the petitioner that instead of admitting their mistake of having sent the allotment-cum-demand letter at a wrong address the respondent sent the letter dated 25th May, 2009 asking the petitioner to explain as to how he received the letter dated 10th August, 1998 in which also the name of the colony was wrongfully mentioned as Shakti Nagar while as he was living in Shastri Nagar. The petitioner informed the respondent that he was able to receive the same as the post man was aware of his address and Shastri Nagar was adjoining colony with the same pin number therefore the letter was delivered to him. The petitioner has asserted that throughout his correspondence with the respondent he has been mentioning his correct present address but the respondent department has failed to make amends and rather has chosen to cancel the allotment of the petitioner. On the basis of these facts he has sought the allotment of the Flat No.667, 2nd Floor, Sector-A-10, Pocket-2, Group-I, Narela, Delhi at the same cost at which it was reflected in the demand-cum-allotment letter or alternatively it has been prayed that a similar flat may be allotted to him at the same cost.

3. The respondent filed its reply and admitted the factum of the petitioner being registered under the NPRS Scheme with the details furnished by him. It was also admitted by them that on 24th July, 1998 the petitioner had applied for change of his residence from original place to Shastri Nagar. However, it has been stated that curiously the original letter dated 24th July, 1998 has not been found available on the record of the DDA. It has been admitted by them that the demand-cum-allotment letter was issued to the petitioner at B-990, Shakti Nagar for the block dates and the said demand-cum-allotment letter was required to comply with the terms and conditions given therein failing which there was an automatic cancellation in the event of amount not being paid by 12th July, 2000 as mentioned in the allotment letter. The allotment was also stated to be subject to the terms and conditions as given in the brochure as well as DDA (Management and Disposal of Housing Estates) Regulations, 1968.

4. It has also been stated by the respondent that the NPRS Scheme has been closed in 2004 and before closure, a public notice was made in the leading newspaper "Navbharat Times" intimating all the registrants

that some demand-cum-allotment-letters have been received undelivered from the postal authorities and such registrants may contact the Deputy Director, LIG on Monday or Thursday along with identify proof within 15 days of the publication of the notice. However the appellant failed to respond and taken action.

5. It is the case of the respondent that the petitioner himself has admitted that he received the letter at his Shastri Nagar address as the post man was known to him and now he cannot resile from the said stand for the future correspondences.

6. Despite the, public notice having been issued the petitioner failed to act upon it and the amount was not deposited. Further in response to the public notice no grievance was raised regarding the non-receipt of the allotment-cum-demand letter, therefore the allotment automatically stood cancelled.

7. It has been averred that after a lapse of about 6 years the petitioner vide letter dated 9th March 2006 intimated the DDA that he did not receive the demand cum allotment letter issued by the DDA while as the respondents had already issued a letter on 25th April

2006 March, informing the petitioner that his allotted flat has been cancelled due to non-compliance of the terms and conditions of the allotment letter and he was requested to apply for refund. It has been stated that the petitioner despite having been sent these communications kept sleeping over the issue for a considerable period of time and approached the Court only in 2014 after a lapse of almost 14 years and therefore this delay of 14 years is fatal to the case of the petitioner and the petition is liable to be dismissed on the ground of delay and laches.

8. The petitioner has filed his rejoinder and contested the averments made in the counter affidavit so far as the delay and laches is concerned. However, no reasonable explanation has been furnished by him and has reiterated only with respect to the wrong address at which the letter of demand-cum-allotment had has been sent.

9. I have heard the learned counsel for the parties and gone through the record. I have also requisitioned the original record of DDA and perused the same. The controversy in the matter is a very narrow one. The petitioner himself admitted that his letter dated 24.07.1998 for change of communication address was acknowledged by the respondents

vide letter dated 10.08.1998 which is admittedly received by him. Curiously this letter also had the address of **Shakti Nagar** and if he could receive this letter, then there is no reason to assume that he would not have received the demand-cum-allotment letter. It is surprising that the petitioner chose to sleep over the matter for nearly eight years before waking up from his slumber and requesting the DDA for the change of his communication address. There is no plausible reason as to why after having been put to notice as to the discrepancy in the address, which is prima facie evident from the letter dated 10.08.1988, any reasonable man would wait for such a long period before taking action upon the same. Therefore the case of the petitioner that his address was B-990, **Shastri Nagar** while as the demand-cum-allotment letter was issued to him at the address of B-990, **Shakti Nagar** holds no water. It is curious that the original representation dated 24th July, 1998 is not on the record. So far as the respondents are concerned they would not be benefitted by not producing the letter sent by the petitioner as they are admitting that the demand-cum-allotment letter has been sent at Shakti Nagar address but it is well possible that the representation which was sent by the petitioner for change of address was having misspelling or the word Shastri was

written in such a manner that it may be read by any person as Shakti Nagar which led to this confusion meaning thereby the disappearance of the letter from the record would benefit the petitioner rather than the respondent. The signature of the petitioner on the petition as well as on the other documents, show that the petitioner signs in Hindi and therefore does not seem to be a well read person. So the disappearance of the said letter can conveniently be taken to be in the interest of the petitioner.

10. Even if this fact is ignored the petitioner himself has admitted that the post man who had gone to deliver the letter dated 10th August 1998, addressed to B-990, Shakti Nagar having pin code of 52, gave the same to him at Shastri Nagar. If that be so, the petitioner had the intimation of the letter in the year 1998 itself and could have intimated the respondent immediately with respect to the discrepancy in the address. Further the petitioner also failed to act upon the public notice published in the national daily newspaper. There was no justification or reasonable explanation given by him as to why he did not comply with the terms and conditions of the demand-cum-allotment letter by depositing the money. It is totally unacceptable and unreasonable for the petitioner to have

waited till 2006 and then in the year 2006 raised the grievance for the first time that the demand-cum-allotment letter has been sent to him at a wrong address and it appears that he has tried to take advantage of the same.

11. Even if this aspect of having approached the DDA in the year 2006 after a lapse of 6-7 years for allotment of a flat in respect of which he was declared successful in the year 2000 is ignored still he ought to have rushed to the Court at the earliest possible opportunity. On the contrary the petitioner has filed the writ petition in the year 2014 raising the grievance of letter of allotment having not been received by him at his Shastri Nagar address and the same having been sent at the wrong address. It is common knowledge and the same is recorded in the official file as well, that in Shakti Nagar the addresses do not have alphabetical block numbers like A, B, C & D etc. but have numerical block numbers. If this is the numbering of the houses in Shakti Nagar, obviously these minor corrections in the addresses are corrected off by the post man of the area who tries to deliver the letter to the addressee by making necessary rectifications as far as it is possible and this is apparently what

has happened. The petitioner himself has admitted that the post man was known to him and he delivered either the letter to him at Shastri Nagar or he got it corrected. In any event, the factum of demand-cum-allotment letter was known to him and he ought to have complied with the same. He defaulted in acting upon the demand cum allotment letter and as a consequence of which it has resulted in an automatic cancellation of the flat. Even after the said cancellation the petitioner could have been given the benefit of allotment if he had rushed to the Court at the earliest possible opportunity. But in the facts and circumstances of the case, when a public notice is issued and the scheme itself is closed in 2004. Further the petitioner chooses to not respond to the same and rather waits for 06 years to approach the Court after the allotment and files the petition after a lapse of 08 years even after being seized of the situation in 2006. Applying the maxim of *vigilantibus non dormientibus jura subvernunt* that is equity aids the vigilant litigant and not those who slumber upon their rights, there are no two doubts that there has been gross negligence on the part of the petitioner which has resulted in the forfeiture of his claim to get any relief from the Court.

12. For the above mentioned reasons, I feel that the writ petition of the petitioner is totally mis-conceived as the same is barred by inordinate delay and laches and the petitioner is not entitled to any relief.

13. Hence, the petition is dismissed.

V.K. SHALI, J.

APRIL 21, 2015/ad