

\$~34

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

+ W.P.(C) 7889/2011

DAYACHAND

..... Petitioner

Through: Mr. Jai Bansal, Adv.

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Bhagvan Swarup Shukla and Mr. Suyash Kumar, Advs. for R-1UOI.
Mr. Parvinder Chauhan, Adv. for R-2&3/DUSIB.
Ms. Shobhana Takiar, Adv. R-4/DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

01.09.2015

1. The petitioner claims to have been dispossessed on 21st January, 2002 from Jhuggi Jhopri Cluster known as Indra Camp, Bapu Dham, New Delhi (stated to be behind Chanakyapuri) which had come up on public land and was, in accordance with the Rehabilitation Scheme of the Govt. of NCT of Delhi (GNCTD), vide letter dated 8th February, 2002 allotted plot No.A-1180, Holamby Kala Phase-I (stated to be near Narela), Delhi.

2. The petitioner, on 2nd November, 2011, filed this petition seeking mandamus to the respondents Union of India through the Ministry of Urban Development, Municipal Corporation of Delhi, Slum & J.J. Department

W.P.(C) 7889/2011

Page 1 of 5

since succeeded by Delhi Urban Shelter Improvement Board (DUSIB) and Delhi Development Authority (DDA) to hand over possession of the aforesaid plot to the petitioner, stating that though he was allotted the plot but was not delivered possession thereof, owing to inability to produce the original documents sought and which had been stolen in the theft at his hutment in Indra Camp on 16th January, 2002 and contending that he was wrongly denied possession of the alternate plot allotted to him.

3. It has at the outset been enquired from the counsel for the petitioner, as to why the petition has been preferred after a long delay of more than nine years. The counsel for the respondent No.3 DUSIB states that the same query was raised from the petitioner on 31st October, 2014 also, as recorded in the order of that date.

4. The counsel for the petitioner has contended that the petitioner has throughout been pursuing the matter with the respondents and it is the respondents who have wrongly denied possession to the petitioner and thus the petitioner is not to be blamed for the delay. It is also contended that the petitioner had on 1st January, 2002 itself deposited the license fee for ten years of Rs.7,000/- demanded from him and the said amount also remained with the respondent No.3 DUSIB.

5. The counsel for the respondent No.3 DUSIB controverts, by drawing attention to the letters which the petitioner claims to have written from time to time and contends therefrom that none of them are addressed to the respondent No.3 DUSIB or its predecessor who alone should have been approached but are addressed either to media or to the other Governmental

Authorities not concerned with the matter of delivery of possession.

6. The counsel for respondent No.3 DUSIB has further contended that no documents in fact were required and the allotment in favour of the petitioner was cancelled, owing to the petitioner having not complied with the terms and conditions thereof and the plot earlier allotted to the petitioner was thus allotted to some other person.

7. I am unable to accept the contention of the counsel for the respondent No.3 DUSIB that the petitioner was not required to produce any document before taking possession of the plot aforesaid allotted to him. In fact, the letter dated 8th February, 2002 of allotment itself bears a stamp that the allotment was subject to verification of documents. Moreover, the respondent No.3 DUSIB has not placed before this Court any document of cancellation of allotment or the grounds on which the allotment was cancelled, inspite of the specific order dated 8th April, 2015 in this petition in this regard.

8. However the fact remains that the petitioner did not have any right to Jhuggi Jhopri Cluster at Indra Camp, of which he was in occupation of and had no right against any of the respondents for allotment of any land in lieu thereof, save a right to be considered under the Rehabilitation Scheme and in which consideration the petitioner was found eligible and made the allotment, subject to verification of documents. The petitioner however slept over the offer made to him by way of his rehabilitation.

9. The petitioner, in the memorandum of parties, has given his address as of B-26, New Block, 31 Trilokpuri, Delhi-110091. On enquiry, the counsel for the petitioner states that the petitioner is a tenant in the said property. On

further enquiry, it is informed that Trilokpuri is also a rehabilitation colony.

10. Rehabilitation has a sense and element of urgency attached thereto; the whole purpose thereof being to immediately provide alternative accommodation to persons who are dispossessed from their houses, though unauthorizedly made over public land. If it is to be found that the person so dispossessed has not acted with promptitude and has settled himself elsewhere with his own resources, then that person cannot belatedly attempt to capitalise from the allotment. A distinction has to be carved out between a rehabilitative allotment and an allotment made in pursuance to some housing scheme. The petitioner had not made any investment in any immovable property, for him to say that he is entitled to the benefit thereof at any time. Rather, it may be noticed that even if the petitioner had made such an investment, his right to enforcement thereof would have become barred by time after such long lapse of time.

11. I am therefore of the opinion that the petitioner, for the reason of the delay on his part, has lost the right, if any to be considered for rehabilitation and cannot now seek possession of the plot which was then offered to him, or to any other plot in lieu thereof. The land available for such rehabilitation also is in short supply and far below the number of homeless squatting over public land in the city and cannot be directed to be given to persons who do not appear to be in need thereof.

12. The petitioner is thus not entitled to the relief claimed.

13. However, it appears that the amount of Rs.7,000/- deposited by the petitioner is required to be refunded to the petitioner since the respondent

would have no right to forfeiture thereof. The counsel for the respondent No.3 DUSIB has fairly stated that the said amount together with simple interest at the rate of 7% per annum from the date of deposit till the date of refund shall be refunded to the petitioner. The said refund be made within a period of one month from today by forwarding the cheque for the amount thereof in the name of the petitioner to the counsel for the petitioner.

Else, the petition is dismissed.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 01, 2015

bs