

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

% *Date of decision : July 17, 2015*

+ LPA 453/2015

RAM DITTI & ANR Appellants
Represented by: Mr.Rakesh Kumar, Adv.

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Represented by: Mr.Mayank Mikhail Mukherjee
Adv. for Mr.Arjun Pant, Adv.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

CM No.12469/2015 (delay)

For the reasons stated in the application, the delay of 72 days in filing the appeal is condoned.

Application is disposed of.

LPA 453/2015

1. Krishan Lal Bhatia applied for a DDA flat under New Pattern Registration Scheme, 1979 (in short 'the Scheme') vide registration No.24317 on 27th September, 1979. He passed away on 31st January, 1988 taking no action to find out whether any allotment was made in his favour or not. It is the claim of the appellants that while going through old papers they came to know that Krishan Lal Bhatia had booked a flat. After the Right to Information Act was enacted by the Parliament, the appellant No.2, son of

Krishan Lal Bhatia filed an application dated 21st February, 2007 seeking information with respect to booking pertaining to Registration No.24317 bearing priority No.34317. From inspection of the files of DDA pursuant to CIC order it was revealed that flat No.255, First Floor, F-5, Sector 16, Rohini was allotted against the said registration to one Krishan Lal Batra (strike Bhatia) on 29th January, 2003 for a sum of ₹1,32,100/-. On the basis of this material, since the allotment in the name of Krishan Lal Bhatia has been given to a wrong person, the appellants who are the wife and son of the deceased Krishan Lal Bhatia were asked to furnish documents and a demand of ₹9,16,473.71 was made for the said allotment.

2. In the counter affidavit filed by the DDA in W.P.(C) No.7489/2013, it was replied that the name of Krishan Lal Bhatia was inadvertently feeded as Krishan Lal Batra however the DDA could not state whether intimation with regard to the allotment was communicated to the allottee or not as the main allotment file was not traceable. It was also pointed out that the appellants who are the legal heirs of Krishan Lal Bhatia neither intimated about the death of the allottee nor made any correspondence and on the representation of the appellant No.1 raising concern over the cost of the flat, the DDA replied that the Lt. Governor had approved that case for restoration subject to payment of current disposal cost of the flat. It was further stated that the case of the appellants was considered under the wrong address policy despite the fact that the legal heirs or the allottee never informed their changed address to DDA and had approached the DDA belatedly.

3. By the impugned judgment dated 19th February, 2015, the learned Single Judge referred to the earlier decisions of this Court in W.P.(C) No.7163/2009 titled as Parwati v. DDA & Anr. decided on 09th May, 2015

and W.P.(C) No.343/2012 titled as Madhu Arora Alias Hony Monga v. Delhi Development Authority decided on 26th February, 2013 wherein this court held that the allottee is liable to pay the price at which the flat was originally allotted to him in case of flat was being re-allotted to him under the wrong address policy. However, the facts of the two cases were different as in the first, the flat was allotted to a dead person whose son within a period of two years, had approached the DDA for mutation of the flat in his name and in the second despite the party approaching the DDA, its queries were not responded for the reason that the name was wrongly noted. Thus, in both the cases, there was no negligence on part of the allottees. The learned Single Judge further noted that in the present case, there is no material to show that Krishan Lal Bhatia kept the track of the allotment in his lifetime and even the appellants herein have given no reason for the time lapse after which they had woken up and how they found the old papers of late Sh.Krishan Lal Bhatia containing the document of registration etc. Since the appellants had not paid the cost of the flat, the learned Single Judge granted 60 days to them to pay the cost of the flat failing which, the DDA was free to take such action as it deems fit in line with the terms and conditions of the allotment.

4. As noted above neither Krishan Lal Bhatia nor his legal heirs acted with due dispatch seeking allotment of the flat. No particular dates have been given when the receipt was found in the old documents of Krishan Lal Bhatia and even having found the same, the appellants waited till the Right to Information Act came in place. Under the scheme, the appellants have already been allotted a flat however in view of the delay caused on their count, it cannot be directed that the enhanced rate be not recovered from the

appellants.

5. Consequently, we find no infirmity in the impugned order. The appeal is dismissed.

CM No.12468/2015 (stay)

Dismissed as infructuous.

**(MUKTA GUPTA)
JUDGE**

**(PRADEEP NANDRAJOG)
JUDGE**

JULY 17, 2015
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