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IN THE HIGH COURT OF DELHI AT NEW DELHI

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DECIDED ON: 10.01.2018

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LPA 11/2018, CM APPL.904/2018

SATPAL

..... Appellant

Through: Mr. Kalicharan, Advocate.

Versus

THE CHIEF SECRETARY GOVT OF NATIONAL CAPITAL
TERRITORY OF DELHI & ORS

..... Respondents

Through: Mr. Arjun Mitra with Ms. Jaskaran
Kaur, Advocates for R-1/GNCTD.

Mr. Rajan Sabharwal with Mr. Vineet Pandey,
Advocates for R-2/NDMC.

Ms. Nikita Salwan, Advocate for R-
3/DSIIDC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A.K. CHAWLA

S.RAVINDRA BHAT, J. (ORAL)

1. The appellant states that an industrial plot which was offered to M/s Pradeep Wood Works by letter of 07.05.2004 and was subsequently sought to be appropriated in the name of that concern by one Mr. Bharat Bhushan has been cancelled and yet no steps have been taken by the DSIIDC to ensure that he is provided that plot or some other plot in lieu thereof.

2. The petitioner had approached this Court earlier in W.P.(C)5834/2014 complaining that the alternative plot offered to his sole proprietorship concern was appropriated as there was a third

party/imposter claiming to be the proprietor of M/s Pradeep Wood Works. On 05.09.2014 that writ petition was disposed of in the following terms: -

The petitioner's grievance is that an alternative plot has been allotted to one Mr. Bharat Bhushan on the basis of the industrial unit, which was being operated by the petitioner/petitioner's father. The petitioner states that the petitioner had not applied for any alternative plot but on the basis of the unit viz. M/s Pradeep Wood Works, an alternative plot has been allotted by the respondents. Learned counsel for respondent No. 3 states that matter has already been referred to the Vigilance Department.

The petitioner's claim that it should be granted the possession of the alternative plot allotted for the industrial unit? Pradeep Wood Works cannot be entertained as, admittedly, the petitioner had not applied for an alternative plot at the material time.

However, it is a matter of concern that a plot has been allotted to another person on the basis of the unit being operated by the petitioner. The respondents are directed to investigate this matter and communicate the results of enquiry/action taken to the petitioner.

The petition is disposed of in the above terms."

3. The enquiry was conducted under the directions of the Court which ultimately resulted in a show cause notice to Mr. Bharat Bhushan and cancellation of the industrial plot No.246, Pocket-I, Sector-5, Bawana, measuring 150 sq. mtrs. The operative part of the cancellation order dated 28.02.2017 reads as follows: -

"And whereas, show cause notice bearing no. DSIIDC/RL/39587/2016/316 dated 06.10.2016 was issued to Sh. Bharat Bhushan on the above grounds to show cause as to why allotment of plot no.246/Pkt-I/Sec-5/measuring 150. sq. mtr. at Bawana in his name should not be cancelled and lease deed dated 19.01.2007 (signed between DSIIDC & Sh. Bharat Bhushan) not

be annulled, with the directions to submit the copies of all documents in support of your claim, if any, within 15 days period;

And whereas, you have failed to reply or show any cause of not resorting to the proposed action of cancellation of allotment of plot by this office on the grounds mentioned above.

And whereas, in the light of above facts and circumstances the proposal was placed before Hon'ble LG/Lessor for cancellation of exiting allotment of plot no.246, pkt-I, sec-5, Bawana Industrial area earlier allotted in the name of Sh. Bharat Bhushan as prop. of M/s. Pradeep Wood Works (Appl.no.39587) and termination of the lease deed dated 19.01.2007 so executed between Sh. Bharat Bhushan and DSIIDC in r/o the aforesaid plot.

And whereas, the proposal for cancellation of existing allotment of above plot & termination of the above lease deed executed by DSIIDC with Sh. Bharat Bhushan has been approved by Hon'ble LG/Lessor.

Now, therefore, the approval of Hon'ble LG/Lessor is hereby conveyed for cancellation of the existing allotment of plot no.246, pkt-I, sec-5, Bawana Industrial area in the name of Sh. Bharat Bhushan as proprietor of M/s. Pradeep Wood Works and termination of the existing lease deed dated 19.01.2007, executed between Sh. Bharat Bhushan & DSIIDC. Also, Sh. Bharat Bhushan is hereby directed to handover the vacant physical possession of plot no.246, pkt-I, sec-5 at Bawana Industrial Area to Estate Manager/Executive Engineer (Bawana), DSIIDC immediately, failing which action appropriate will be initiated against Sh. Bharat Bhushan as deemed fit by DSIIDC."

4. The appellant approached this Court yet again complaining that despite cancellation of the plot allotted to Bharat Bhushan, the DSIIDC did not take any step to ensure that the plot was in fact offered to him. The DSIIDC appears to have taken position that since the petitioner did not actually apply for the plot, there was no question of allotting it to him. Accepting this contention, the learned Single Judge rejected his second W.P.(C)10416/2017 on 24.11.2017 in the following terms: -

“3. The petitioner now claims that the plot which was earlier allotted to Mr Bharat Bhushan, be allotted to him. The said prayer is clearly unmerited as the petitioner had never applied for a plot under the scheme. Having made no application for a plot, the petitioner cannot now be allotted the plot only because another person was allotted a plot on the strength of claiming himself to be a sole proprietor of M/s Pradeep Wood Works. Concededly, the application on the basis of which such allotment had been made was made by Mr Bharat Bhushan and not by the petitioner.”

5. The appellant contends that on 26.10.2016 he received a reply from the DSIIDC stating that the plot was handed over to Mr. Bharat Bhushan on behalf of Pradeep Wood Works. It is stated thereafter that he approached the authorities and had to seek recourse to the Right to Information Act (RTI Act) in response to which the replies were furnished along with the copies of the documents. These ultimately led him to approach the Court in the first instance. It is submitted that having shown the DSIIDC that Bharat Bhushan was not the genuine owner/proprietor of Pradeep Wood Works and that he was in fact the proprietor, the DSIIDC ought to have ensured in all fairness that upon cancellation of the plot, consequential allotments were made to him.

6. This Court is of the opinion that once the DSIIDC accepted the appellant's plea that he was the victim of the fraud played by the third party, it was obliged at least to verify whether he or anyone connected with him (such as his father etc.) owns Pradeep Wood Works. In such eventuality, the logical corollary would be that the DSIIDC has to ensure that either the plot which was cancelled or another plot of the same size is offered to the petitioner.

7. For the forgoing reasons, the DSIIDC is directed to enquire into the matter and ascertain whether the petitioner/appellant was in fact operating as proprietor of Pradeep Wood Works at the time when the offer letter was issued to that concern, i.e., in May 2004. If as a result of that enquiry, the DSIIDC determines that the petitioner was in fact the sole proprietor of the concern, it should take necessary remedial steps to offer either the cancelled plot or another plot in view of the above. The DSIIDC shall consider all the materials on record in this regard including the materials placed before the Court and pass reasoned order which shall be independently communicated to the appellant within eight weeks from today.

8. The appeal is disposed of in the above terms.

9. Order dasti.

S. RAVINDRA BHAT
(JUDGE)

A.K. CHAWLA
(JUDGE)

JANUARY 10, 2018
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