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

+ **W.P.(C) 4910/2018**

AMAR NATH HIRA

..... Petitioner

Through: **Mr. Manoj Kumar Yadav, Adv.**

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: **Mr. Pawan Mathur, Standing
Counsel.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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08.05.2018

Present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to:

(a) issue a writ in the nature of certiorari / mandamus or any other appropriate writ, order to issue fresh demand-cum-allotment letter block dated 20.01.2017 – 27.01.2017 (received by the petitioner only on 01.06.2017) by waiving the interest for the period of 28.01.2017 to June, 2017 on the same terms and conditions in compliance of order dated 16.12.2009 and to quash the automatic cancellation and further maintain the restoration of the Flat No.95 Sector 19, Pocket-1, third floor, Dwarka, New Delhi in favour of the petitioner;

(b) Pass such other and further order as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

It is noted from the writ petition that the petitioner had applied under NPRS-1979 for an MIG Flat on September 28, 1990. He made a request for conversion of LIG flat to MIG flat which request was acceded to. In the draw held on December 26, 2003, petitioner was allotted a flat in Dwarka and accordingly a demand-cum-allotment letter was issued on February 27, 2004. It is the case of the petitioner that he deposited an amount of ₹1 lac on November 30, 2004. The said allotment was cancelled by the DDA on March 18, 2005. Petitioner made a request for restoration, but the same was denied. He filed a petition being W.P.(C) 453/2008, which was decided in the year 2009 whereby the writ petition was allowed and the flat was restored in favour of the petitioner upon the petitioner making a payment as per the cost prevalent at that time subject to adjustment of ₹1 lac deposited by the petitioner. It appears that a fresh demand-cum-allotment letter dated September 25, 2014 was issued on the basis of the rates prevalent in the year 2014 after adjusting ₹1 lac. The same became a subject matter of a petition being W.P.(C) 2332/2015. In the said writ petition a direction was issued to issue a fresh demand-cum-allotment letter on the basis of the rates prevailing as on December 16, 2009. Accordingly, demand-cum-allotment letter was issued on January 20, 2017 with a stipulation that the demand shall be deposited by July 26, 2017, else the allotment shall be cancelled.

It is the submission of the learned counsel for the petitioner that in the demand-cum-allotment letter dated January 20, 2017, respondents were claiming interest for the period January, 2017 till May, 2017 against which the petitioner took up the issue with the DDA, because of which he could not deposit the demanded amount. He states, petitioner is ready and willing to deposit the amount as demanded with interest till date. He also states,

earlier petition was filed before the expiry of date of July 26, 2017, which shows that the petitioner had a genuine grievance about the interest which was being wrongly claimed by the respondents.

On the other hand, Mr. Pawan Mathur, learned standing counsel appearing for the respondent / DDA states, it is a case where there was a deliberate default in making the payment. According to him, issue of interest is only a ploy to delay the payment.

Having heard the learned counsel for the parties and on perusal of the record, I find that petitioner having failed to deposit the amount as asked for on or before July 26, 2017, the necessary consequence is Clause 12 of the Demand-Cum-Allotment letter, which clearly stipulates automatic cancellation if the initial payment is not paid by July 26, 2017 shall have the effect. On repeated queries from the Court as to what were the justifiable reasons for which he could not make the payment, the only submission made is that the petitioner was pursuing with the DDA; the interest aspect for the period January, 2017 to May, 2017. I find there is no representation placed on record in support of this contention by the petitioner.

Further, the submission of Mr. Yadav about the filing of the petition before July 26, 2017 also does not appeal to the court as no order was sought nor passed by this court protecting the rights of the petitioner in the eventuality of the non-payment of demanded amount, before July 26, 2017. Noting the above, I do not see any reason to interfere with the impugned action of the respondent of automatic cancellation of the flat in question.

The petition stands dismissed.

CM. No. 18893/2018 (for stay)

In view of the order passed in the writ petition, the application has become infructuous.

V. KAMESWAR RAO, J

MAY 08, 2018/jg