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

\+ LPA 348/2018

DELHI URBAN SHELTER IMPROVEMENT BOARD ..... Appellant

Through Mr. Parvinder Chauhan, Adv.

versus

PARBATI ..... Respondent

Through Mr. Pramod Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **03.07.2018**

CM No. 25592/2018

Exemption allowed subject to all just exceptions. The application is disposed of.

CM No. 25593/2018

This is an application for condonation of delay of 28 days in filing intra court appeal. Learned counsel for the respondent is present and states that he has no objection in case delay is condoned. Application is allowed.

CM No. 25590/2018

This is an application for placing on record copy of policy enclosed as Annexure A-3 to the grounds of appeal. This policy was not placed on record before the Single Judge.

Application is not opposed. The application is allowed, subject to all just exceptions and the policy is taken on record. This order would not mean that the respondent was not eligible for allotment in terms of the said policy.

LPA 348/2018 and CM No. 25591/2018 (stay)

This intra court appeal by Delhi Urban Shelter Improvement Board impugns order dated 12.03.2018 passed by the learned Single Judge in W. P. (C) 8959/2014, Parbati vs. Government of NCT of Delhi decided on 12.03.2018.

2. Operative portion of the impugned order reads as under:-

> *"5. In these circumstances, I am inclined to direct the respondents to reconsider the case of the petitioner afresh for allocation of a site in the background of the aforesaid facts. In case, the scheme adverted to in the petition stands closed, then the respondents will consider the case of the petitioner for allotment at another site under any of the subsisting schemes given the facts and circumstances obtaining in the present case. A speaking order be passed by respondent no.l, within six weeks from today.*

3. Learned counsel for the appellant submits that the writ petition should have been dismissed on the ground of delay and latches. We do not agree as in the present case the husband of the writ petitioner (respondent herein) had deposited Rs.7,000/- with the appellant vide receipt dated 19.12.2002. This payment was received by the appellant and

has not been refunded. This payment was made for the allotment for alternative site/flat in view of the demolition of the hutment located in J. J. Camp, Income Tax Colony, Pitampura, New Delhi for which demolition slip dated 05.07.2002 was issued by the appellant to the husband of the respondent.

4. Husband of the respondent had thereafter written several letters/representations which were enclosed with the writ petition as Annexure P-4 (colly). No response or reply was given by the appellant.

5. In the meantime, husband of the respondent expired and thereafter, respondent had made representation dated 23.09.2014 to which again no response was received from the appellant. Thereupon, the respondent has filed the afore-stated writ petition on 12.12.2014.

6. This is the case in which the representations of the respondent and her late husband have remained unanswered, though the appellant has received the payment of Rs.7,000/- for alternative allotment. Issue of demolition slip is not disputed and challenged.

7. In view of the aforesaid position the appellant must consider the case of the respondent for allocation of site. This would necessarily mean that the appellant would consider the case of the respondent in terms of the policy and not dehors the said policy.

8. Counsel for the respondent states that he has no objection

in case appellant is to consider the case of the respondent in terms of the applicable policy.

9. At this stage, learned counsel for the appellant has drawn our attention to the preceding paragraph before the quoted paragraph. He submits that there are observations in this paragraph which could be misinterpreted as a direction given for allotment of a site/accommodation and not mere consideration in terms of the policy.

10. Counsel for the respondent states that this apprehension is misconceived as the preceding paragraph refers to the submission that the demolition slip dated 05.07.2002 mentions that the husband of the respondent was ineligible. In this context it was observed that the husband of the respondent was unable to pay Rs.7,000/- on 05.07.2002 and therefore, was considered ineligible. He was not considered ineligible for any other reasons.

11. We would only clarify that the observations made in the preceding paragraph are *prima facie* observations and would not in any manner deny and constraint, the appellant from considering the case of the respondent under the applicable policy. This would mean that the respondent should satisfy and meet the conditions and criteria fixed in the policy enclosed as Annexure A-3 to the present appeal.

12. To cut short any delay, the respondent with her authorised representative would visit the office of the appellant on 02.08.2018. On the said date, the authority would inform the

respondent about the necessary papers and documents which are required. The respondent would produce the necessary documents/papers and in case of any deficiency, the concerned officer would inform the respondent in writing and she would be given three-four weeks time to remove and comply with the said deficiency.

13. We clarify that we have not given any finding or observation on merits and the authorised officer would independently apply his mind on the question of eligibility and entitlement of the respondent.

14. In case of an adverse order, it will be open to the respondent to challenge the order in accordance with law.

15. Recording the aforesaid, we dispose of the present appeal as well as the CM No. 25591/2018 with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JULY 03, 2018
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