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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 15th February, 2018

Date of decision : 23rd May, 2018

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RFA 535/2011 & CM NO.7422/2012

KAUSHLYA MADAN & ANR.

..... Appellants

Through: Ms. Manjula Gandhi, Ms. Medha Tandon and Mr. Aditya Kapoor, Advocates (M-9903849663).

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through: Mr. Nikhil Goel, Standing Counsel with Mr. Aniruddha Deshmukh & Mr. Ashutosh Ghade, Advocates (M-8376011490) with Mr. D.K. Singh, Dy. Director/MIG/(H) and Mr. Sunil Kumar Murjani, Asst. Director, Housing (MIG) from DDA.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

1. The DDA issued a scheme known as Registration Scheme for New Pattern, 1979, for allotment of residential flats (*hereinafter* 'DDA Scheme') in Dwarka.
2. Sh. J.C. Madan applied for a flat and deposited a sum of Rs. 4,500/- vide Challan No. A-05001 dated 25th September, 1979. The said deposit was to carry an interest of 7% per annum which was to be adjusted towards

payment of cost of the flat or to be repaid. A certificate of Registration was also issued to Sh. J.C. Madan dated 17th May, 1980 by the DDA in which his address is recorded as D-II/76, Janak Puri, New Delhi. The Registration number was changed from 18604 to priority number 32941.

3. Sh. J.C. Madan, however, passed away on 13th June, 1984 but on the said date, the flat was not allotted to him but his registration number was valid. He left behind two legal heirs Smt. Kaushlya Madan (wife) and Sh. S.K. Madan (son). On 13th September, 2002, the son of Sh. J.C. Madan informed the DDA of his new address as DG-II/32-A, Vikas Puri, New Delhi-110018. In January, 2004 on seeing a press clipping of Times of India that all the registrants under HUDCO Scheme had been allotted the flats his son made enquiries. It was then revealed that the DDA had not effected the change of address in its records. At that stage, the Plaintiffs again submitted all the documents with the DDA and also prayed for change of name of allottee. Again the Plaintiffs sent a reminder on 18th September, 2006. However, none of the letters were replied by the DDA which led to issuance of a legal notice dated 7th December, 2006 and thereafter the filing of the suit by the wife and the son of Sh. J.C. Madan (*hereinafter* 'Plaintiff'). In the plaint, they prayed for the followings reliefs against the DDA.

*"19. It is, therefore, respectfully prayed that a-
(A): A Decree for Declaratory Relief, declaring the Plaintiffs to the allotment & entitlement/of Flat No. 445, Phase-2, Pocket B, Sector 13, Dwarka, MIG., Second-Floor, Delhi-110075 in favour of the Plaintiffs against the defendant at the original cost of the Flat fixed by the defendant at Rs. 1,01,6400/- (Rs. Ten Lakhs/ Sixteen/Thousands Four Hundreds) may kindly be passed in favour of the Plaintiffs against the defendant, as Legal heirs of Late Mr. J.C. Madan.*

(B): A Decree for the Specific Performance of the Contract by means of delivery of physical possession of the Flat No. 445, Pocket 'B', Phase-2, Sector 13, MIG., Second-Floor on payment/deposit of original cost of RS. 1,01,6400/-(Rs. Ten Lakhs Sixteen Thousands/ Four Hundreds) or the amount so demanded in the alleged +Allotment Letter and execution of the conveyance-cum-Lease-Deeds in favour of the Plaintiffs may kindly be passed in favour of the Plaintiffs, against the defendant.

In case, the captioned Flat's Specific Performance can not be done by the defendant, then in that event, the Plaintiffs be allotted the possession delivered thereof with execution of the Perpetual Lease Deed, Conveyance Deed in favour of the Plaintiffs by the defendant of any other flat of the similar size, quality, construction, Get-Up, Area, Locality and preferably the Flat be Ground-Floor because of the Plaintiffs being quite aged person cannot climb the stairs (they being respectively of 75, 58 years of ages respectively) at this time in the Locality known as Dwarka, Pappan Kalan, Delhi-110075.

(C): A Decree of Mandatory Injunction, thereby directing the defendant to maintain, preserve the allotment of Flat and transfer the Allotment rights in favour of the Plaintiffs, after disclosure of the formalities to be undergone by the Plaintiffs on receipt of communication by the Plaintiffs from the defendant be passed in favour of the Plaintiffs against the defendant.

(D): Costs of the suit, alongwith any other appropriate relief, Order or Direction be passed in favour of the plaintiffs against the defendant.

In the alternative, the plaintiffs, pray that in case the above-stated reliefs can not be granted in favour of the plaintiffs for any reason or Ground whatsoever, then in that a Decree for the recovery of Rs. 5,80,121/- (Rs. Five

Lakhs/Eighty Thousands/One Hundred/Twenty-one) be passed in favour of the Plaintiffs against the defendant. The Plaintiffs be also awarded the costs of the suit and interest pendent-lite as well as future @ 12% per annum till the realisation of the entire amount of Decree.”

4. In its written statement, the DDA admitted the application filed by Sh. J.C. Madan and allotment of the priority number. It pleaded that the intimation regarding the death of Sh. J.C. Madan was given for the first time in letter dated 19th February, 2004. However, prior to that, a computerized draw was held on 31th May, 2002 wherein Sh. J.C. Madan was declared successful for allotment of MIG Flat No. 445, 2nd Floor, Sector-13, Pocket-B, Phase II, Dwarka, New Delhi. The DDA claimed that immediately after allotment through the computerized draw of lots, it issued a demand cum allotment letter dated 25th June, 2002-5th July, 2002. It was thereafter claimed that the allotment was cancelled on 14th January, 2004 by the competent authority as the amounts were not paid. Since the death of Sh. J.C. Madan was communicated only on 19th February, 2004, though the death had taken place on 13th June, 1984, the DDA had, by then cancelled the allotment and directed the Plaintiff to apply for mutation of registration and obtain refund of amounts deposited. The DDA categorically stated that no change of address application was given until 18th February, 2004. The DDA, however, admitted the receipt of the later letter dated 18th September, 2006 given by the Plaintiffs. The followings issues were framed in the suit:

“AMENDED ISSUES

- 1. Whether the written statement filed by the defendant has not be properly verified as per the provisions of CPC and its effects? (OPP)*

2. *Whether the deponent Sh. B.B. Kundal who had filed the written statement was a duly authorized officer to file the same before the court? (OPD)*
3. *Whether the suit of the plaintiff is not maintainable for want of notice u/s 53(B) DD Act? (OPP)*
4. *Whether the allotment of the flat in question was cancelled by the defendant legally? (OPD)*
5. *Whether the plaintiff is entitled to decree of declaration as prayed for? (OPP)*
6. *Whether the plaintiff is entitled to a decree of specific performance as prayed for? (OPP)*
7. *Whether the plaintiff is entitled to decree of mandatory injunction as prayed for? (OPP)*
8. *To what relief the plaintiff is entitled for? (OPP)*
9. *Relief?"*

5. The Plaintiff led the evidence of Sh. S.K. Madan, son of Sh. J.C. Madan and the Defendant led the evidence of Assistant Director, DDA in the Housing Branch, Sh. Tejinder Kumar. The Trial Court after hearing the arguments held that since the DDA had cancelled the allotment and hence the Plaintiff was not entitled to any relief. An application was filed under Order XI Rule 16 wherein on 15th July, 2009, the Trial Court passed following order:

" I have considered the grounds raised in the application and also considered the notice u/o 11 rule 16 CPC given to the defendant by the plaintiff wherein he is required to produce following documents for inspection.

1. *Original computer floppy dated 7.12.2006 maintained at Dak Receipt Sec. relating to receipt no. REC/M/06/6,999 dated 7.12.2006 at 3:34 p.m. by the employee Mr. Ishwar Chand Subject Legal Notice address to Vice Chairman of DDA (Acknowledgment) in Vikas Sadan, New Delhi by the DDA.*

2. *Original computer floppy dated 7.12.2006 maintained at Dak Receipt Sec. relating to receipt no. REC/H/06/42,583 dated 7.12.2006 at 4.05 p.m. by the employee Mr. Madhu Sudan, Subject : Submission address to the Housing Commissioner, DDA (Acknowledgment) in Vikas Sadan, New Delhi.*
3. *The Dak receipt registers and dak delivery registers maintained for the delivery of documents of the above referred documents by the respective employee Mr. Madhu Sudan and Mr. Ishwar Chand to the respective sections/deptt. of DD as on 7.12.06, 8.12.06, 9.12.06.*
4. *Complete file maintained by the office of the Financial Advisor, DDA Vikas Sadan with regard to the increase in cost of construction of Built up flats and the land underneath them in the years 06-07 in respect of the entire Union Territory of Delhi and particulars in the area of Dwarka Scheme, PappanKalan New Delhi-70 in the years 06-07.*
5. *Attendance/muster roll of the employees namely Madhu Sudan, Ishwar Chand maintained as on 7.12.06 by the DDA as its respective sections in Vikas Sadan DDA, New Delhi and also on 8.12.06 being on duty on 7.12.06, 8.12.06 and also any other document showing the marking of attendance by the said employees on 7.12.06, 8.12.06.*

I have gone through the reply filed by the defendant/DDA. It is not clear from the reply whether the documents at Sl. No. 1 to 5 as aforementioned, are available with the DDA for inspection or not. Therefore, under these circumstances, on request of counsel for DDA Ms. Promila Kapoor, one opportunity is granted to the defendant to file a detail affidavit with regard to the

availability of the documents mentioned at Sl. No. 1 to 5 and in case if they are available, to placed the copy of the same on record on next date of hearing. The application under Order 11 Rule 12, 14 r/w Sec. 151 CPC and U/s 65 and 66 of Evidence Act is kept pending for consideration on next date of hearing.

Case be listed for filing of affidavit by the defendant/ DDA as aforesaid and argument on the application under Order 11 Rule 12, 14 r/w Sec. 151 CPC and U/s 65 and 66 of Evidence Act on 20.08.2009.”

Thereafter on 20th August, 2009, the application under order XI Rule 12 was disposed of by passing the following order:

*“Suit No. 90/2009
Kaushalya Devi Vs. DDA*

20.8.2009

*Present: Sh. Om Prakash Bhatia counsel for plaintiff.
Ms. Promila Kapoor counsel for DDA.*

Affidavit has been filed on behalf of defendant / DDA in compliance of the order dated 15.7.2009 regarding availability of the documents mentioned at Sl. No.1 to 5 in the application u/o XI rule 12, 14 r/w Sec. 151 CPC and u/s 65 and 66 of Evidence Act. It is submitted that in respect of documents at Sl. No. 1 & 2, there is no provision of maintain computer floppies, however the computer generated receipt is available, copy of which has been placed on record. In so far as the documents at Sl. No.3 is concerned, it is submitted that the extracts of the transit register showing the receipts of the two documents has also been placed on record. I have gone through the same and in this regard it shall be open to the plaintiff to summon the witnesses from the concerned department for production of the original documents. In so far as the documents mentioned at Sl. No.4 is concerned, the said documents is in respect of the land costing and the land

underneath the built up flats from 1.10.2005 to 31.3.2008, copy of which has been placed on record. Further, in so far as the document mentioned at Sl. No. 5 is concerned, the extracts from the attendance register are placed on record, which according to the Ld. counsel for DDA are authentic copies of the register.

In view of the aforesaid and also in view of the fact that additional issues were framed on the last date of hearing, it shall be open to the plaintiff to examine himself and other witnesses on the additional issues and also to summon witnesses from the department, if so desire, in accordance with law. Case be listed for evidence of the plaintiff for 30.11.2009 for cross examination of PW1 Affidavit of other additional witnesses be filed within 60 days from today with advance copy to the counsel for defendant.

*Sd/-
(Dr. Kamini Lau)
ADJ: DELHI/20.8.2009”*

The application under O.XI Rule 12 and 14 was an attempt by the Plaintiff to establish the various visits made by him and also the receipt of letters in the DDA office.

Summary of Evidence

6. Plaintiff No.2, Sh. S.K. Madan, appeared as PW-1. He exhibited all the relevant documents including challan receipt, registration certificate issued by the DDA, copy of letter dated 12th September, 2002 along with the registered post receipt, letter dated 12th February, 2004 along with the speed post receipt, a letter issued by State Bank of India as address proof for the new address, copy of passport, letter dated 18th September, 2006 sent to DDA along with annexures. He deposed that despite repeated visits to the DDA's office, there was no response and the DDA was dealing with the

matter with complete recalcitrance. He also exhibited letter dated 18th September, 2006 and the legal notice dated 7th December, 2006. His evidence by way of affidavit mentions all the relevant facts in respect of his family and states that the family does not have any independent flat to stay in which was the reason why his father had booked the flat with DDA. In his cross-examination, he specifically states that he has sent letter dated February, 2002 under registered post but between the years 1984 to 2002, he admits having not sent any correspondence to the DDA. He further deposed that it was only five to six years after the death of his father that he came to know of the booking of this flat of the DDA. He specifically stated that he did not receive letter dated 12th February, 2004 i.e. the cancellation letter. He gives details about the officials of the DDA whom he met on his visits.

7. The witness from the DDA, DW-1, Sh. Tajinder Kumar, who was the Assistant Director in the Housing Branch confirmed in his affidavit about the allotment in the name of Sh. J.C. Madan and also that he was declared successful in the draw of lots. The entire evidence of DDA rests on the letter dated 25th June, 2002-5th July, 2002 and that it was sent by speed post and it was received back on 17th July, 2002. He relied upon the note sheet of the DDA where competent authority had cancelled the allotment in favour of Sh. J.C. Madan. He admits that the letter dated 16th February, 2004 was received by DDA but deposed that the legal heirs of Sh. J.C. Madan were only entitled to refund. He claims that the DDA replied vide letter dated 12th April, 2004 and called upon the legal heirs to take refund. He states that no letter dated 12th September, 2002 was received by the DDA. Interestingly he admits in his cross-examination that in furtherance of DW-1/6 i.e. the note sheet dated 14th January, 2004 cancelling the allotment, no letter of

cancellation of allotment or cancellation of registration was sent pursuant to the said note sheet.

Analysis and Findings

8. A perusal of this case and the evidence therein shows that the DDA has no system for maintenance of its records. The Court had, during the course of the hearing, summoned the original record of the DDA which, to say the least, reflects a woeful state of affairs. However, this Court is first examining the merits of the present case. The facts stand admitted insofar as the initial registration number and the allotment of flat is concerned. The dispute begins with the letter dated 12th September, 2002 along with registered AD receipt (Ex.PW-1/6 and PW-1/6-A). The DDA disputes this letter. The Plaintiffs have placed on record the postal receipt which is in original and clearly bears the stamp of the postal authorities. It has been despatched from Patel Nagar, Post Office to the Vice-Chairman, DDA. Though, the said letter is denied, a perusal of the photocopy of this letter along with the original postal receipt and the passport copy attached thereto, shows that the same is genuine. There is no reason to disbelieve an original postal receipt. The said letter reads as under: -

*“To,
The Vice Chariman
Delhi Development Authority
“D” Block
Vikas Sadan
Besides INA Market
New Delhi*

*Sub:- CHANGE OF ADDRESS IN R/O
REGISTRATION SCHEME NPRS-1979
(HUDCO) REGISTRATION No. 18604,*

PRIORITY No. 32941 FAVOURING SH. J.C.
MADAN (EXPIRED).

As I have been transferred to Delhi and has been provided leased accommodation by the Bank at DG II/32A DDA Flats, Vikaspuri, New Delhi (Photocopy of the address proff attached).

In this connection, you are requested to change the address in your records in respect of the above mentioned registration of MIG flat.

You are also requested to advise me through the concerned department, how much more time it will take to allot the flat as it has already passed almost 23 yrs. '

Thanking you

*Sd/-
(SK. MADAN)
SON*

12th Sept, 02

Encl:- A photocopy of the address proof."

9. Thus the Plaintiff had on 13th September, 2002 clearly intimated the DDA about the change of address. The letter having been sent by registered post, under the provisions of the General Clauses Act, it is deemed to have been served. Except this letter, DDA admits the receipt of all the other letters written by the Plaintiffs. Insofar as the DDA is concerned, the letter dated, i.e., the Demand-cum-Allotment letter dated 25th June, 2002-5th July, 2002 has been exhibited as EX.PW-1/D-1. This letter has been addressed to Sh. J.C. Madan, **D-11/76**, Janak Puri, New Delhi. Admittedly this is not the correct address of Sh. J.C. Madan because as per the allotment, the correct address of Sh. J.C. Madan is **D-II/76**, Janak Puri, New Delhi. Admittedly, there is no address bearing No. D-11/76, Janak Puri, New Delhi. Thus, the

so-called demand cum allotment letter was sent at a wrong address. Even the envelope DW-1/4 has been returned with the remarks “no such person in this address, so returned to sender.” The two Exhibits PW-1/D-1 read with DW-1/4 shows that the DDA did not sent the demand cum allotment letter to the address which was available even as per the original allotment. It was sent to D-11/76, Janak Puri, New Delhi instead of D-II/76, Janak Puri, New Delhi. Thus, the Plaintiff never got the demand cum allotment letter.

10. There is no reason to believe that the letter dated 12th September, 2002 sent by registered post with the address proof was not received by the DDA. As held earlier, any letter sent by registered post is presumed to have been delivered. Further the mystery does not end here. A perusal of the original record of the DDA shows that this demand cum allotment letter exists in three copies; Copy-1, Copy-2 and Copy-3. All the three copies i.e. copy-1, copy-2 and copy-3 are in original in the DDA records. The original DDA record also contains an envelope in original bearing No.M-312(4146)/2002/NP/DW which has been returned with the remark “**Wrong address**”. This envelope is a ‘window envelope’. It is thus not even clear as to which was the exact address to which the demand cum allotment letter was despatched i.e. whether D-11/76, Janak Puri, New Delhi or D-II/76, Janak Puri, New Delhi Moreover, none of the other letters written by the Plaintiffs in 2004 and 2006, which are admittedly received by the DDA, are on the original record of the DDA or have been replied by the DDA. The death certificate and other documents are available on the DDA’s record attached to a public hearing form dated 16th November, 2006 which has been sent by PW-1 wherein he lodged this grievance as under:

“We have booked a MIG flat in 1979 under

NPRS(HUDO) vide Reg No. 18604/NP/MIG Priority No. 32941 but till date we have not been informed by the DDA regarding allotment of the flat till date, we came to know from the DDA, that MIG Flat No. 445 was allotted to us in sector 13 Dwarka and the same has been cancelled allotted to some lady although the letters had been sent by me by the Regd Post/Speed Post and also at the DDA Counters. Please look into the matter. The Photocopies of the correspondence are enclosed for ready reference.”

11. This shows that the Plaintiffs were continuously following up with the DDA. DW-1 also admitted in his evidence that no letter of cancellation was issued after the decision by the competent authority (DW-1/6). The said recommendation reads as under:-

“In this case the allottee of flat no. 445 Sector-13 B Block Phase II at Dwarka was allotted to Sh. J.C. Madan on hire- purchase basis/Cash Down basis/ vide letter No. 312(4146)01/NP/DW with block date 25/6/02-5/7/02 The last due date of payment was upto 3/10/02 and demand letter sent to 5/7/02 and demand letter sent on 5/7/02 at the given/changed address.

The DAL received undelivered on 17/7/02 and Re-directed again dated _____. The allottee has neither made the payment nor submitted any documents. The show cause notice has already been issued on _____.

We may now cancel the allotment as well as Registration and asked the allottee to submit the refund documents.

Submitted for orders please.”

The above office noting , even if approved cannot constitute a cancellation, until a specific letter of cancellation is issued and communicated.

From these facts, it is clear that the demand cum allotment letter was sent to

the wrong address. The change of address communicated in 2002 was not taken on record. There are five original prints of the demand cum allotment letter in the original record of the DDA and none of them appeared to have been served upon the Plaintiffs. Thus, in the absence of a proper communication of the demand cum allotment letter, it cannot be concluded that the Plaintiffs failed to pay the demanded amount. Moreover, there was no communication of the cancellation as well. From the Plaintiff's side, a perusal of the repeated letters written by him dated 12th September, 2002 (EX. PW-1/6), letter dated 12th February, 2004 (EX. DW-1/7), letter dated 18th September, 2006 (EX. PW-1/9), notice dated 7th December, 2006 (EX. PW-1/11) and the various visits that PW-1 made to the DDA clearly leads to the conclusion that the Plaintiffs have diligently followed up with the DDA. PW-1 has in fact attended a Public Grievance hearing and has made repeated visits to the DDA office.

12. On the other hand, the DDA failed to properly communicate the demand cum allotment letter which was not sent to the correct address even as per their own records. The letter intimating the change of address was completely ignored. The remaining letters which were sent were not replied to. Only a sketchy reply on 12th April, 2004 was sent to the following effect.

“DELHI DEVELOPMENT AUTHORITY

M.I.G.(HOUSING)

No.M.312/4146/02/DW/NP/2687

DATED:12/4/04

To,

*Sh./Smt./Km. S.K. Madan
DG-II/32A, SFS Flat
Vikas Puri, New Delhi.*

Sub: Allotment of flat No.445, Sec-13, Pkt. B, Ph.II,

Dwarka.

Sir/Madam,

With reference to your letter dated 16/2/04 on the subject cited above, I am directed to inform you to apply for mutation first and also apply for refund of registration money after mutation.

*Asstt. Director (MIG) H
D.D.A.”*

13. In the absence of a proper communication of the allotment or demand thereupon, there cannot be any cancellation due to non-payment. Moreover, even the alleged cancellation was not communicated to the Plaintiffs. Thus the Trial Court was in error in holding that the letter dated 13th September, 2002 was not sent and no relief is liable to be granted as the original record of DDA was not summoned by the Plaintiff. No purpose would have been served in summoning the original record of the DDA as a perusal of the original record which has now been summoned even before this Court, shows that the DDA has not maintained its records properly. The Plaintiff tried to obtain electronic and other records from the DDA as is evident from the applications under Order XI Rule 12 and the orders raised thereon. Even the letters which has been admittedly received are not on the original record. The original postal receipt (registered post) cannot be disbelieved, inasmuch as in law, under the General Clauses Act, 1897 a letter sent by registered post is deemed to have been delivered as it is held by the Supreme Court in *N. Parameswaran Unni v. G. Kannan & Anr. (2017) 5 SCC 737*. The Plaintiffs have made repeated efforts but the DDA has been completely repulsive to any attempt made by the Plaintiffs to sort out the matter. It has

adopted a citizen unfriendly attitude. The Trial Court's remark that it does not matter whether the demand cum allotment letter were sent to D-II/76, Janak Puri, New Delhi or D-11/76, Janak Puri, New Delhi, is also erroneous inasmuch as if the main letter i.e. the demand cum allotment letter was sent to the wrong address by the DDA, then it cannot be seen to justify the cancellation of the allotment. Even Exhibit DW-1/6 is not a cancellation but a mere recommendation to cancel, which cancellation was not done at any point by the DDA. The Trial Court has, therefore, originally invoked clause 27/28 of the brochure. The Plaintiffs are entitled to the relief prayed for.

Maintenance of Records by the DDA

14. This case reveals a completely sordid state of affairs as to the records of the DDA. The original record of the DDA was summoned by the Court and it is an absolutely sketchy record which runs into not more than 10 to 15 pages. It contains the original application made by Sh. J.C. Madan. Copy No.1, Copy No.2 and Copy No.3 of the demand cum allotment letter with a brown envelope containing some bank names and their addresses. There is no other document in the original record. All the original demand cum allotment letters are in the DDA's file. Not even a single letter written by the Plaintiffs exists on the record. In the High Court case file of the DDA, copy of a public notice dated 5th February, 2006 issued has been placed which reads as under:

“PUBLIC NOTICE
Registrants of MIG under New Pattern Housing
Registration Scheme-79 and Ambedkar Awas Yojna-89

*The list of MIG registrants under New Pattern Housing
Registration Scheme-79, Ambedkar Awas Yojna-89
including the cases of conversion of registration from*

Janta/LIG to MIG and the cases of tail end priority have been covered and allotted flats through computerized draws. To this effect public notice in leading dailies were given on 4.7.2003 and 27.1.2004 for information of the registrants.

It is once brought to the notice of MIG registrants of New Pattern Housing Registration Scheme-79 and Ambedkar Awas Yojna-89 that those MIG registrants who have not taken any refund/allotment so far, may approach to DDA. Such cases will be considered on individual merit as per policy/guidelines. Such registrants may apply/contact to Deputy Director (MIG) Housing between 2.30 P.M. to 5.30 P.M. at 2nd Floor, 'D' Block, Vikas Sadan, INA, New Delhi, on any working Monday and Thursday with all details and copies of all documents viz. FDR, Registration Card, Challan of amount submitted on account of cancellation charges, change of address, if any, within 30 days from the date of publication of this notice in the newspaper. It is specifically brought to the notice that any request received after the expiry of 30 days will not be entertained and summarily rejected."

15. This notice has not been brought to the notice of the Court. This notice in fact shows that even as of February, 2006 applicants i.e. MIG registrants who have not taken the allotment could be considered on individual merit as per policy guidelines

16. The files of the DDA go to show that it does not preserve (for whatever reason) the correspondence in a proper manner. There is no method by which a citizen can ascertain as to whether his/her letters have reached the DDA and if so how long he/she should wait for a reply. For an ordinary litigant, approaching Court is the last resort. This entire litigation after the allotment in 2002 could have been completely avoided if there was

proper maintenance of correspondence by the DDA. The DDA would have known that there was a change of address through the letter sent by the Plaintiffs. Even in 2006, the DDA came out with the policy for considering the individual cases but it still did not consider the Plaintiffs case.

Relief

17. The application by the husband of Plaintiff No.1 and father of Plaintiff No.2 dates back to 1979. The family has waited for more than 39 years for allotment of a MIG flat. The record speaks volumes of the complete non-caring attitude of an authority like the DDA. The demand cum allotment letter has been generated in multiple originals and not a single one of them was sent and delivered to the Plaintiffs. Thus the cancellation is illegal and contrary to law. The suit of the Plaintiff is thus liable to be decreed as under:-

(a) A decree for specific performance is granted in favour of the Plaintiffs against the Defendants for Flat No. 445, 2nd Floor, Sector-13, Pocket-B, Phase II, Dwarka, New Delhi upon a payment of Rs.10,16,400/- by the Plaintiffs to the DDA on or before 31st July, 2018.

(b) The DDA is directed to, within 4 weeks after receiving payment, handover possession and execute a perpetual lease deed and conveyance deed in favour of the Plaintiffs.

(c) In case, the abovementioned is not available, decree for specific performance is granted for an equivalent flat of similar size, quality, construction, get-up, area and locality to be allotted by the DDA in favour of the Plaintiff subject to the same conditions as (a) and (b) above.

18. The Appeal is allowed in the above terms. Decree sheet be drawn.

The original records of the DDA are returned today. All pending applications are disposed of,

19. Copy of this order be sent to the Lieutenant Governor and Vice Chairman, DDA for appropriate orders/directions to be issued in this regard for maintenance of records by the DDA and for considering setting up an online feature on its portal which would enable proper and complete tracking of current status of files and correspondence.

PRATHIBA M. SINGH, J.
Judge

MAY 23, 2018/*Rekha*