

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: April 19, 2018

Judgment delivered on: May 02, 2018

+ W.P.(C) 7878/2016

RAMINDER KAUR

..... Petitioner

Through: Mr. C. Mohan Rao and Mr. Lokesh
Kumar Sharma, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. Satish Kumar, Adv.

CORAM:

HON'BLE MR JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

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

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

- a) *issue a writ, direction or order quashing the letter of the respondent dated 11.04.2016 refusing to allot a flat to the petitioner and a writ of mandamus or any other writ, order or direction, directing the respondent to allot an MIG flat in the ground or first floors in Dwarka Phase-I at the rates as prevalent in the year 1994; and*
- b) *Pass any other order or orders as this Hon’ble Court may deem fit under the facts and circumstances of the case.”*

2. It is the case of the petitioner in the writ petition that her husband Late

Sh. Gurdial Singh had applied for allotment of MIG flat under the New Pattern Registration Scheme, 1979 (NPRS-79) on September 25, 1979 vide registration Number 21090. At the time of submitting the application, Sh. Gurdial Singh was a resident of D-48, Fateh Nagar, New Delhi. It is averred that Late Sh. Gurdial Singh shifted his residence to 25/13, Ashok Nagar, Tilak Nagar, New Delhi and an intimation in this regard was given to the respondent vide letter dated February 27, 1986. Sh. Gurdial Singh died on August 12, 1987. It is averred that petitioner intimated the respondent regarding the death of Sh. Gurdial Singh vide letter dated August 18, 1988 and submitted necessary documents for changing the registration in her name. Respondent sought various documents / clarifications / explanations and affidavits from the petitioner including the clarification whether Late Sh. Gurdial Singh survived by his mother; whether he had left any Will; and whether one Sh. Sharanjeet Singh was his son. It is stated that she clarified all the doubts and submitted the necessary documents and affidavits. It is averred in the writ petition that after her husband's death on August 12, 1987, petitioner obtained a Ration Card showing herself as the head of the family. The same was issued with No. 734630 on January 1, 1988 falling under Mandal No. 21 with Ration Shop No. 5662 and registration No. 330. Subsequently, she changed her residence from 25/13 Ashok Nagar, New Delhi to 20/5, Ashok Nagar, New Delhi. In spite of the change of address, the

Mandal and the Ration Shop remained the same. Thus rather than issuing a fresh ration card, changes were made in the same ration card by striking off the old address and entering the new address apart from other changes. It is her case, endorsement was made in the ration card stating “*change of address made “20/5, Ashok Nagar, New Delhi – 110018”*”. It is stated in the writ petition that the petitioner submitted all the necessary documents including photocopy of the ration card where change of address had effected. Having satisfied that the petitioner is entitled for change of registration in her name, the respondent had carried out the change of registration in the name of the petitioner on October 15, 1990. According to her, as there was no communication from the respondent pursuant to the change of registration in her name and on learning from the Newspaper reports that the respondent DDA had almost completed allotment of MIG flats in Dwarka, she approached the respondent. It was revealed that Flat No. 460, Pocket – 3, Sector 19, Dwarka, New Delhi was allotted in the name of her late husband Sh. Gurdial Singh in the draw held on March 21, 1994 at the cost of Rs.4,62,592.22/- and the demand-cum-allotment letter of blocked dates July 5, 1994 to July 9, 1994 was sent to Late Sh. Gurdial Singh at the old address viz. D-48, Fateh Nagar, PS-Tilak Nagar, New Delhi – 18. It is also averred that the demand-cum-allotment letter appears to have been sent to the petitioner at 25/13 Ashok Nagar, near Tilak Nagar, New Delhi rather than at

fresh address furnished by the petitioner, i.e., 20/5, Ashok Nagar, New Delhi. According to her, as per the documents procured by the petitioner it transpired that as the demanded amount has not been paid, show-cause notice dated February 28, 1996 was issued and the same was sent at 25/13, Ashok Nagar near Tilak Nagar, New Delhi and respondent cancelled the allotment made in favour of the petitioner on the ground of non-payment. On coming to know the aforesaid position, the petitioner approached the respondent for allotment of flat by pointing out she has not received the demand-cum-allotment letter. She stated that she also met the Vice-Chairman, DDA in public hearing seeking redressal of her grievances. Following her meeting with the Vice-Chairman, the matter was considered by the respondent and fresh verification of documents and genuineness of the petitioner was carried out. It is stated that having satisfied that the case of the petitioner was covered under the *“wrong address policy”* the competent authority had decided to allot a flat to the petitioner as in the meantime, the flat that was allotted to the petitioner was disposed off. Accordingly, the name of the petitioner was put in the draw held on May 18, 2007 for allotment of MIG flat and flat no. 65, First floor, Pocket-D, Phase-II, Dwarka, New Delhi was drawn in the name of the petitioner. While carrying out the computation, it appears that the Finance Department in its note dated July 19, 2007 had put an objection. After considering the objection put by the Finance Department and on a re-

consideration, it was decided to call upon the petitioner to appear in the public hearing along with original ration card of both the addresses, i.e., 20/5, Ashok Nagar, New Delhi - 110018 and 25/13, Ashok Nagar, New Delhi – 110018. It is the case of the petitioner that she again shifted her residence from 20/5, Ashok Nagar, New Delhi to D-21, Fateh Nagar, New Delhi – 110018. On this occasion, there was change of Mandal while Ashok Nagar falls under Mandal 21 and Fateh Nagar falls under Mandal – 13. On depositing the old ration card, petitioner was issued a new Ration Card No. APL-13131990.

3. In the letter dated May 8, 2009 of her counsel it was represented that she has shifted her residence and has submitted her old ration card to the authorities for issuance of new ration card. It is stated that in the letter dated March 10, 2011 respondent had called upon for appearance of the petitioner for verification of genuineness by appearing in public hearing and for verification of documents. It is averred that petitioner appeared on February 8, 2011 and her genuineness was verified. According to her neither there was any discrepancy in the ration card nor petitioner was asked to verify anything regarding the ration card. Following the verification of genuineness, the matter was considered and it was observed that since the competent authority has already approved the case under the “*wrong address policy / change of address*”, the cost of the flat as per “*wrong address policy*” be computed. The Finance wing again vide its note dated January 10, 2012 observed that the

“wrong address policy” is not applicable and the approval earlier given may be withdrawn.

4. It is the case of the petitioner that the non-allotment of the flat to the petitioner and withdrawal of the earlier decision on the basis that the case is not covered under the *“wrong address policy”* is absolutely illegal and without merit.

5. On the other hand, the case of the respondent is that husband of the petitioner late Sh. Gurdial Singh had applied for registration of MIG Flat under NPRS Scheme, 1979. He was the resident of D-48, Fateh Nagar, PS-Tilak Nagar, New Delhi – 110018. His death was intimated to the DDA and on the request of his wife, the registration was transferred in her name on October 15, 1990. It is also stated on turn of priority, the petitioner was declared successful for allotment of MIG Flat no. 460, 1st Floor, Pocket-3, Phase-I, Sector-19, Dwarka, New Delhi in the draw of lot held on March 21, 1994 on cash-down payment. Despite demand-cum-allotment letter sent at 25/13, Ashok Nagar, New Delhi and non-payment thereof the allotment was cancelled. Pursuant to which show-cause notice dated February 28, 1996 was issued, to which no response was received. The cancellation was effected vide letter dated May 16, 1996. It is also stated by the respondent that the petitioner had vide representation dated June 14, 2004 intimated that she had already changed her address vide letter dated September 13, 1990 and

requested for allotment of flat. The competent authority approved the allotment of flat under “*wrong address policy*” on April 12, 2007 and the petitioner was accordingly allotted Flat No. 65, First Floor, Sector – 17, Pocket-D, Phase-II, Dwarka, New Delhi. On merit it is their case that the Finance wing had put an objection that the application dated September 13, 1990 for submissions of documents of new address given by her is written differently; the affidavit has overwriting; on photocopy of ration card there are overwriting and the number of ration card of both the addresses are same.

6. Having heard the learned counsel for the parties, the only issue which falls for consideration is whether the respondent was justified in withdrawing the earlier decision of allotting flat on the ground that the case does not fall under the “*wrong address policy*”. According to the respondent as the new address given by her is written differently; the affidavit has overwriting and the number of ration card of both the addresses are same, the impugned action is justified. Learned counsel for the petitioner would justify the cutting on the ration card by stating that as there was no change of Mandal and the shop as the petitioner has changed her residence within the same locality, i.e., 25/13, Ashok Nagar, New Delhi to 20/5, Ashok Nagar, New Delhi, the authority concerned had struck off the old address and put the new address and retained the old ration card. It is stated that petitioner’s name on the affidavit was

correctly typed in the main portion of the affidavit, however below deponent, there seems to be some typographical error due to which the name was written in hand and the same is inconsequential.

7. The aforesaid would show that both the parties tried to justify their respective stand. In substance the dispute is whether the identity of the petitioner is genuine; that she is the wife of original registrant and there was change of address / residence and duly informed to the respondent and the same has been properly / rightly recorded in the ration card, the only authenticated source of information. There was some doubt in the mind of the authorities, but doubt can be clarified if the relevant information was sought from the ration card authorities, who would have the relevant information, including the application submitted and other supporting documents. That apart, if there is any overwriting on the affidavit, respondent could have called upon the petitioner to submit a fresh affidavit. But on a mere suspicion, respondent could not have denied the petitioner the benefit of “*wrong address policy*”.

8. The only action respondent need to take is to verify the identity of the petitioner; the genuineness of the address on the ration card and the change to the present address as well. Accordingly, this Court is of the view that the petitioner shall file appropriate certificate from the ration card Authority related to the change of addresses (till the present address) as noted above and

furnish a fresh affidavit on the lines already submitted to the respondent within eight weeks from today. On such submission, respondent DDA shall verify the certificate and the affidavit by calling upon the petitioner to appear before them and make such enquiries as deem fit to be satisfied about the identity of the petitioner / change of the addresses of the petitioner from 25/13, Ashok Nagar, New Delhi to 20/5, Ashok Nagar, New Delhi and subsequently to D-21, Fateh Nagar, New Delhi and pass a speaking order within eight weeks thereafter in accordance with law. In view of the above, the order dated April 11, 2016 is set aside.

The petition is disposed of. No costs.

MAY 02, 2018

jg

V. KAMESWAR RAO, J