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

+ **W.P.(C) 586/2019 & CM APPL.2613/2019**

SMT. MADHUBALA

..... Petitioner

Through: Ms Sangeeta Chandra, Advocate.

versus

DELHI URBAN SHELTER
IMPROVEMENT BOARD

..... Respondent

Through: Mr Parvinder Chauhan, Standing
Counsel with Mr Nitin Jain, Advocate
for DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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21.01.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a) Issue a Writ of mandamus or any other appropriate Writ, order or direction, directing the respondent/ DUSIB to carry out the mutation qua Flat No. 61-D (Third Floor/Top Floor), Block 16, Sarai Kale Khan-II, New Delhi -110013 in the name of the petitioner;

b) Issue a Writ of mandamus or any other appropriate Writ, order or direction, directing the respondent/DUSIB to hand over the possession of the Flat No. 61-D (Third Floor/Top Floor), Block 16, Sarai Kale Khan-II, New Delhi -110013 to the petitioner;”

2. The petitioner is the widow of late Sh Kishan Chand. The petitioner's late husband had applied for allotment of a flat under the Slum Residential Scheme, 1985. He was allotted a flat bearing the address Flat No. 61-D,

(Third Floor/Top Floor) Block-16, Sarai Kale Khan-II, New Delhi (hereafter 'the flat') under the Slum Residential Scheme, 1985 (E.W.S. Category). The said flat was allotted on a hire purchase basis.

3. The petitioner states that during the period 26.10.1995 to 02.05.1996 her husband deposited a sum of ₹29,761.50 and thereafter, on 02.05.1996 deposited a further sum of ₹9,588/- as initial deposit.

4. On 16.05.1996, the respondent issued a possession letter calling upon the petitioner's husband to take possession of the flat in question within a period of thirty days. The petitioner claims that the possession of the flat was not delivered to her husband. However, it is the DUSIB's case that the possession of the flat was offered but the petitioner's late husband did not come forward to take over the possession of the flat in question.

5. The petitioner's husband expired on 24.03.2004. The petitioner has been pursuing the DUSIB for handing over of the possession of the flat in question and has made several representations. It is also claimed that the petitioner had deposited several instalments against the purchase consideration. In all, the petitioner/her husband has deposited ₹1,40,349.50 including the sum of ₹29,761.50 and ₹9,588/- claimed to be deposited by the petitioner's late husband prior to the issuance of the possession letter.

6. The learned counsel appearing for the DUSIB points out that on or about 15.11.2017, DUSIB had sent a notice "Provisional Demand Cum Final Notice" calling upon the petitioner to pay a sum of ₹5,09,811/-. This amount also included interest calculated at 7% per annum on the amount of delayed instalments. He states, on instructions, states that the DUSIB will hand over the possession of the flat, however, on payment of the aforesaid amount as suitably enhanced by interest due after 15.11.2017.

7. The learned counsel appearing for the petitioner states that the petitioner may not be in a position to pay the entire amount in a lump sum, however, she would pay the amount due within a period of six months from today. She further states that the DUSIB has not taken into account the sum of ₹1,40,349.50 which is paid by her and has not taken into account the sum of ₹63,920/- .

8. In view of the above, this Court considers it apposite to direct the DUSIB to hand over possession to the petitioner, on the petitioner making the payments as demanded in terms of the notice dated 15.11.2017 with further interest with effect from 15.11.2017 till the date of payment.

9. The petitioner shall appear before the concerned Directorate, Housing DUSIB on 31.01.2019 at 10.30 a.m. along with original challans evidencing the payments as claimed by the petitioner. DUSIB is directed to examine the petitioner's claim as to the payments made and give due credit to the said payments after verification. DUSIB is directed to submit a revised demand from final notice after verifying the payment already received and also add further interest from 15.11.2017. It is noticed that the DUSIB has charged interest at 7% per annum on the instalments due and 10% on the ground rent. It would be apposite that the Final Demand be also calculated on the aforesaid basis. It is so directed.

10. The petition is disposed of. The pending application is also disposed of.

11. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

JANUARY 21, 2019/pkv