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

Date of Decision : 06.09.2019

+ W.P.(C) 5507/2019 & CM 24207/2019
TUSHITI CHOPRA

..... Petitioner

Through: Petitioner in person.

versus

DIRECTOR OF ESTATE

..... Respondent

Through: Mr.R.Singh, Standing Counsel,
GNCTD with Mr.Chirayu Jain,
Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner, *inter alia*,
praying for the following reliefs:

“1. Issue appropriate direction(s), order(s) or writ(s) to Respondent to provide opportunity to Petitioner to bid for suitable accommodation considering her seniority from 17th January 1977 (date of possession of accommodation by father) based on her choice, requirement, need and entitlement.

2. Issue appropriate direction(s), order(s) or writ(s) to Respondent to return back Petitioner's property to Petitioner or pay Rs. 25 lakh along with interest.

3. Issue appropriate direction(s), order(s) or writ(s) to Respondent to take action against guilty officers.

4. Direct for appropriate Compensation to the Petitioner through Respondent.

5. Any other relief this Hon'ble court may deem fit in interest of justice."

2. It is the case of the petitioner that the petitioner is in occupation of Type-II Flat No.F-2590, Netaji Nagar, New Delhi-110023 (hereinafter referred to as the 'disputed flat'), which was originally allotted to her father in January, 1977. Though he became entitled to allotment of Type-VI accommodation, he never applied for the same. Upon the death of the father of the petitioner, the allotment was regularised in favour of the petitioner.

3. It is claimed that the petitioner is an unmarried lady working as a Superintendent (Legal) in the Government of India. She claims herself to be entitled to Type-III accommodation. She further claims to be suffering from Rheumatoid arthritis and thyroid diseases and claims that she is entitled to allotment from the General Pool accommodation, being a lady as also on medical grounds.

4. It is further claimed by the petitioner that as the respondent was re-developing the Netaji Nagar area, the petitioner was entitled to participate in the bid for allotment of an alternate flat, however, no notice in this regard was received. Eventually, the petitioner was informed of the allotment of the alternate flat at C-435, Albert Square, Gole Market, which was a Type-II accommodation but was not habitable.

5. The petitioner duly represented against such allotment, whereafter, the respondent allotted Quarter No.1210, Sector-7, R.K.Puram, New Delhi to the petitioner. The petitioner claims that even this flat was not habitable.

6. It is further claimed by the petitioner that while the petitioner was representing to the respondent regarding allotment of an alternate accommodation, she found that the entry and exit to her flat was blocked. A Notice dated 28.12.2018 under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was also found pasted on the wall of the flat. The petitioner claims that the lock of her flat was broken and her belongings were removed from the flat illegally by the respondent.

7. On the first date of hearing itself, that is on 20.05.2019, the respondent as also the Central Public Works Department (CPWD) were directed to ensure that the accommodation allotted at R.K.Puram to the petitioner is made habitable as expeditiously as possible and in any event within a period of two weeks from the date of the order. The petitioner was directed to approach the concerned officer of CPWD and take possession of the said flat. As far as the petitioner's allegations of removal of her property and belongings from the flat at Netaji Nagar was concerned, the respondent was directed to file an affidavit in that regard.

8. In the order of this Court dated 30.05.2019, it was recorded that the petitioner was not interested in accepting the allotment of the Quarter at R.K.Puram. She stated that she is entitled to participate in

the bidding process for a higher category Quarter. As far as removal of her belongings from the flat at Netaji Nagar, the following directions were passed:

“4. The petitioner has also stated that her belongings from Flat No. F- 2590, Netaji Nagar, Delhi have been removed. This is disputed by the respondent. It is affirmed on behalf of the respondent that the flat in question (Flat No. F-2590 Netaji Nagar, Delhi) has not been taken over by CPWD. It is stated that officers of CPWD had gone to the said flat for taking possession of the same, however, the same was locked and therefore, the eviction order was pasted outside the door. It is also pointed out that although the possession of the flat in question has not been taken over, the area has been cordoned by NBCC and is not otherwise accessible.

5. In that regard the petitioner is at liberty to proceed to the said flat and remove her belongings from the same. The petitioner shall intimate the time and date on which she would go to the site to the concerned officer of CPWD. The respondent is directed to ensure that a responsible officer is present at the flat to facilitate the petitioner in removing her belongings and to take over possession of the flat in question.”

9. By the subsequent order dated 14.08.2019, the respondent was directed to ascertain the vacant flats in Category Type-II that were presently available for the allotment. List of these flats was given to the petitioner by the counsel for the respondent on 26.08.2019.

10. The petitioner has now agreed to allotment of Quarter No.172 at Lodhi Road Complex without prejudice to her rights and contentions to claim a higher category accommodation.

11. Ms.Meenakshi Bhardwaj, Asstt. Director who is present in person from the Department submits that the respondent would allot the said Quarter to the petitioner, however, this is only as a concession granted in the peculiar facts of the present petition and may not be treated as a precedent.

12. Accordingly it is directed that on allotment of the alternate quarter as mentioned hereinabove, the petitioner shall hand over the vacant physical possession of the Quarter presently in the occupation to the respondent at Netaji Nagar.

13. As far as the submission of the petitioner that the petitioner is entitled to allotment of a higher category flat, the respondent relies upon the Office Memorandum dated 14.03.2018 issued by the respondent declaring the 'Comprehensive Policy for allotment, re-allotment and change of allotment under compulsory shifting in re-development colonies'. In the said policy, it is clearly provided that the effected allottees of the colonies being re-developed would be allotted the same category of accommodation. Further detailed procedure was prescribed for allotment of such alternate accommodation.

14. In view of the above, the plea of the petitioner for allotment of a higher category flat as an alternate accommodation due to re-development of Netaji Nagar cannot be acceded to. However, incase the petitioner is otherwise entitled to a higher category flat, such claim of the petitioner shall remain unaffected by this order and would be

processed by the respondent in accordance with its policies in this regard.

15. As far as the claim of the petitioner for compensation and for return of her property, as noted hereinabove, the respondent has vehemently denied having taken over the possession of her flat. Infact, based on the submission of the respondent, the petitioner, by the order dated 30.05.2019 was directed to visit the flat to take away her belongings. It was directed that the petitioner shall intimate the time and date on which she would be visiting the flat so that the concerned Officer of the CPWD is also present. I am informed that the petitioner did not exercise this option and did not give any notice of her visit to the flat to CPWD.

16. The petitioner is granted another opportunity to visit the flat at Netaji Nagar by giving an advance notice to the concerned Officer of the CPWD within a period of one week from this order. The respondent is directed to ensure that a responsible officer would be present at the flat to facilitate the petitioner in removing her belongings from the said flat.

17. Incase, the petitioner still claims that any of her belongings are missing from the flat, in view of the denial of the respondent, it would be a disputed question of fact as to whether the respondent took over the flat from the petitioner and/or any belongings of the petitioner are missing from the flat. Such disputed question of fact cannot be determined in a writ petition. The petitioner would have to take appropriate legal remedy in that regard.

18. The petition is disposed of in the above terms. There shall be no order as to costs.

Dasti.

NAVIN CHAWLA, J

SEPTEMBER 06, 2019

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