



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

% **Date of order : 27th September 2022**

+ **W.P.(C) 11347/2017**

ANAND STAMPING (INDIA) Petitioner

Through: Petitioner in person with Ms. Neha
Kapoor, Advocate

versus

DSIDC Respondent

Through: Counsel for Respondent
(Through VC)

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:-

“(a) Allow the instant writ petition and direct the respondent to allot some other alternative plot or in the alternative

(b) Direct the respondent to get the said plot vacated from the enroachers and hand over vacant peaceful possession of the said plot to the petitioner

(c) Grant damages to the tune of Rs 10,00000/- for causing financial loss, loss of reputation to the petitioner;



(d) Pass any other further order as this Hon'ble Court may deem fit and proper in the facts of the case."

2. The facts that have led to the filing of the instant petition reveal that the petitioner was allotted Plot admeasuring 150 sq. yards. bearing No. L-161, Bhorgarh Bawana-II Industrial Complex under the Relocation of Industries Scheme of 1996 vide letter dated 17th September 2010. The possession letter thereto dated 30th January 2014 and the Plot Status Certificate dated 14th February 2014 was also issued to the petitioner.

3. It is the case of the petitioner that when the allottee went to take over the physical possession of the aforesaid plot, the same was found to be encroached upon, whereafter, the petitioner filed a complaint with the SHO, Police Station Narela, Delhi seeking registration of FIR against the encroachers. Complaints were also made by Ex-Engineer (CD) to the concerned Police Station.

4. The petitioner, thereafter, also made several representations to the respondent for change of the plot allotted to it, however, having received no reply on the said representations and after seeing that no action had been taken by the respondents, the petitioner approached this Court by way of filing the instant petition.

5. Learned counsel appearing on behalf of the petitioner submitted that the aforesaid plot was allotted to the petitioner, however, after signing the possession letter the allottee came to know that Plot No. 161-164 were encroached upon by one Khushnuma Parveen since the year



2008. It is submitted that the Plot Status Certificate issued to the petitioner misrepresented that the plot was lying vacant and the respondent concealed the fact that there was encroachment on the plot allotted to it.

6. It is submitted that the petitioner contacted Executive Engineer A.K. Mishra and Rakesh Nain, who informed it that the encroacher had constructed her jhuggi, however, despite knowing the fact the petitioner was not intimated about the same and was allotted the encroached plot. It is submitted that the petitioner was duped and cheated by the respondents who were well aware that the encroachment long existed on the said plot and despite the same, allotted it to the petitioner, falsely claiming it to be vacant. It is submitted that the same is also evident from the complaint dated 3rd November 2011 by Rajesh Malik S.P.M. (CD)-XIII to the SHO, PS Narela, Delhi seeking registration of FIR against encroachment on the L Block of Industrial Area where the said plot is situated. Another letter was written by the Ex-Engineer (CD)-XIII dated 5th January 2015 to the SHO, PS Narela seeking police help for removing the encroachments from Plot No. L-161 to L-164.

7. It is submitted that the petitioner made representations dated 10th July 2015, 8th April 2016, 23rd March 2017 and October 2017 to the respondent, however, no reply was received by him on any of the representations.

8. It is submitted that the encroacher has also falsely implicated the proprietor of the petitioner in an FIR registered under Section



354A/376/34 of the Indian Penal Code, 1860. It is submitted that since the respondents have not been replying to the representations of the petitioner, it has no other option but to seek relief from this Court.

9. Per Contra, learned counsel appearing on behalf of the respondents vehemently opposed the instant petition and submitted that the petitioner was allotted the aforesaid plot vide allotment cum demand letter dated 17th September 2010 and a possession letter dated 30th January 2014 was issued to him, in pursuance to which the petitioner took actual physical possession of the plot on 14th February 2014, for which the Plot Status Certificate was also issued. It is submitted that at the time of handing over the possession there was no encroachment on Plot No. 161, which was allotted to the petitioner.

10. It is submitted that as per the terms of allotment, the allottee had to construct industrial plot within a period of one year from the date of handing over the physical possession. The petitioner was handed over the possession on 14th February 2014, therefore, it was bound to construct the industrial plot by 13th February 2015, however, since it failed to carry out the said construction, it led to illegal encroachment on the plot. It is submitted that the last date for carrying out a construction was extended by the respondent up to 31st December 2016 for the benefit of the allottees but the petitioner failed to utilize the said extension also.

11. It is submitted that the petitioner has relied upon the complaint dated 3rd November 2011, but a perusal of the same shows that it was



regarding encroachment in Block L and not specifically concerning the plot allotted to the petitioner.

12. Learned counsel for the respondents submitted that after receiving the complaint from the petitioner, a programme was scheduled for removal of said encroachment on 10th March 2015 with the help of the SHO, Police Station Narela, and the same was successfully removed. The respondent vide letter dated 31st March 2015 requested the concerned SHO to issue necessary directions to the concerned officials / beat officers to make a strict surveillance in the area where the subject plot is located so that the encroachers may not be able to encroach the land again. Since the allottee did not make any effort to start the construction / protect the land by making boundary wall etc., the same has been encroached again by the encroacher. It is strongly urged that after the physical possession was handed over to the allottee, it was the responsibility of the allottee to protect its possession and start the construction at the site.

13. It is submitted that therefore, the instant petition is liable to be dismissed since there is no cause of action requiring interference of this Court.

14. In rejoinder, it is submitted on behalf of the petitioner that although the Plot Status Certificate was issued on 14th February 2014, however, the actual physical possession of the plot was never handed over to the petitioner. Moreover, the petitioner could not have raised any construction on the said land since there was already an encroachment on



the plot. It is further submitted that the petitioner is not aware of any removal/demolition drive and the plot in question is still under encroachment.

15. Heard learned counsel for the parties. Record has also been perused.

16. The petitioner was allotted the plot in question under a Relocation Scheme in pursuance of directions of the Hon'ble Supreme Court to relocate industries operating in residential and non-conforming areas. The respondent had carried out a draw of lots and accordingly, the petitioner was allotted the plot. The grievance of the petitioner before this Court is that there was an encroachment on the land allotted to it, which the respondent was aware of yet continued the process of allotment concealing the facts. In the alternative of removal of encroachment, the petitioner seeks an alternative plot against the plot originally allotted to it.

17. This Court has perused the pleadings. As per the contents of the counter affidavit, the respondent had approached the SHO, Police Station Narela and taken appropriate and necessary steps to remove the encroachment on the plot allotted to the petitioner.

18. Evidently, the relief which the petitioner is seeking before this Court had already been addressed, considered and acted upon by the respondent. The respondent sought the aid of the concerned authority and removed the encroachment by demolishing the unauthorised



construction. To this effect the statement made by the Executive Engineer of the respondent is reproduced hereunder:-

“4. That after receiving the complaint from the Petitioner and a programme was scheduled for removal of said encroachment on 10.03.2015 with a help of the SHO Narela Police Station and the same was successfully removed. The Answering Respondent vide letter dated 31.03.2015, requested the concerned SHO to issue necessary directions to the concerned officials / beat officers to make a strict surveillance in the area where the subject plot is located so that the encroachers may not be able to encroached the land again. Since the allottee did not make any effort to start the construction / protect the land by making boundary wall etc., the same has been encroached again by the encroacher. It is relevant to point out that after the physical possession has been handed over to the allottee, it is the responsibility of the allottee to protect his possession and start the construction at the site.”

19. Once the respondent and the Police had taken all necessary steps to remove the encroachment on the property/plot allotted to the petitioner and hand over its encroachment free possession, it was the duty of the petitioner itself to protect its property from any further encroachment. The petitioner itself failed to carry out the necessary construction to retain its possession and peaceful enjoyment, which was a requirement as per the allotment scheme as well.

20. This Court, exercising its writ jurisdiction, has a limited extent to its powers. At this stage, when the relief sought by the petitioner has already been addressed and acted upon by the respondent and the encroachment that the petitioner is aggrieved of had already been



removed, this Court does not find any cogent reason to invoke its writ jurisdiction, grant the prayers on behalf of the petitioner and issue a writ of mandamus directing the respondent to allot any other alternative plot.

21. The petitioner may seek alternative remedies to remove the alleged encroachment by initiation of appropriate proceedings as prescribed under law, however, there is no relief that this Court deems fit to be granted while exercising its writ jurisdiction.

22. In the light of aforesaid facts, circumstances, submissions and observations, and also in view of the statement made in Para 4 of the counter affidavit, this Court does not find any merit in the instant petition.

23. Accordingly, the instant petition is dismissed and pending applications, if any, also stand disposed of.

24. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 27, 2022

neelam/ms