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

% *Decided on: 1st February, 2023*

+ W.P.(C) 5014/2016

GOPAL KRISHAN SRIVASTAVA Petitioner

Through: Mr. N.S. Dalal, Mr. Alok Kumar, Ms. Rachana Dalal, Ms. Sweta Kadyan, Advocates (M:7082348017)

versus

LAND & BUILDING DEPARTMENT Respondent

Through: Mr. Yeeshu Jain, Standing Counsel with Ms. Jyoti Tyagi, Ms. Manisha, Advocates for R-1 (M:9811394417)
Ms. Manisha Agrawal Narain, Mr. Sandeep Singh Somaria, Ms. Rakshita Goyal, Advocates for R-2 (M:9818427971)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. By way of the present petition, the petitioner is aggrieved by the purported letter dated 09.01.2012 issued by Land and Building Department, by which the Land and Building Department had directed the DDA to keep in abeyance the recommendation for allotment of alternative plot to the petitioner. Earlier, the Land and Building Department had recommended allotment of alternative plot to the petitioner by way of Recommendation Letter dated 02.07.2004 under

the Allotment of plot under the Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961.

2. The facts in brief are that the land of the father of the petitioner forming part of Khasra No. 1281/873/3/1, total land measuring 5 bighas 1 biswas situated in the Revenue estate of village Bahapur, Delhi, was acquired vide award No. 1299. Pursuant thereto, possession of the land was also taken over. The father of the petitioner applied for allotment of an alternative plot as per the rehabilitation policy of the respondent.

3. Father of the petitioner died on 22.02.2003 and after his death, the petitioner pursued the matter with the respondent. Ultimately, Recommendation Letter dated 02.07.2004 was issued to the petitioner, which was addressed to the Commissioner (Land), DDA with direction to the DDA to allot a plot measuring 250 Sq. Yds. to the petitioner in lieu of his acquired land.

4. On the basis of the Recommendation Letter, the DDA allotted an alternative plot to the petitioner in the year 2010. The petitioner deposited the entire amount as was demanded by the DDA towards the cost of the plot. Possession of the alternative plot was taken over by the petitioner in the year 2010 itself.

5. It is the case of the petitioner that later on it came to his notice that the Land and Building Department had written a letter to the DDA thereby directing the DDA to keep in abeyance 7 recommendations, which had been made by it, which also included the recommendation in favour of the petitioner.

6. On behalf of the petitioner it is contended that once the

recommendation has been made, then the respondent has no right to pass any order for keeping the same in abeyance. Further, no notice was issued to the petitioner before issuance of the letter dated 09.01.2012, directing the DDA to keep the recommendation letter in favour of the petitioner in abeyance. The Petitioner has not been conveyed any reason for keeping the recommendation in abeyance and no Principles of Natural Justice were followed before issuing such a letter.

7. Learned Counsel appearing on behalf of Respondent No.1, Land and Building Department has controverted the submissions made on behalf of the petitioner. She has drawn the attention of this Court to its counter affidavit, wherein it is clearly stated that the Land and Building Department has never issued any such letter dated 09.01.2012 for keeping the recommendation letter in abeyance. The relevant paragraphs of the counter affidavit filed on behalf of respondent No.1 are as follows:

**“COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENT NO.1”**

I, Sanjay Jain S/o Late Sh. R. K. Jain, aged around 52 years *presently* posted as (Deputy Secretary) (Alternative) with the Land & Building Department, GNCTD, New Delhi do hereby solemnly affirm and declare as under:

.....

4. That vide the present writ petition, the petitioner has sought the quashing of the letter dated 9.1.2012 allegedly issued by the Land & Building Department to the DDA for putting certain recommendation letters in abeyance including the recommendation letter issued in

the name of the petitioner herein. It is submitted that the answering respondent has searched the entire records relating to the issuance of the alleged letter and it was observed that the Land & Building Department has never issued any such letter dated 9.1.2012 by which the request was made to the DDA to keep the recommendation letters in abeyance. It is submitted that the answering respondent has already issued a letter dated 1.2.2022 to the DDA thereby informing it about non-issuance of letter dated 9.1.2012. A copy of the letter dated 1.2.2022 is annexed herewith as Annexure R -1.

5. That it is submitted that vide letter dated 22.9.2009, the DDA sought verification of recommendation letters for allotment of alternative plots under various categories and for disposal, the answering respondent constituted a Committee of four members including the Deputy Director (Alt.), Asst. Legal Advisor, the Programmer and the AAO who after the checking of the authenticity of around 490 recommendation letters with dispatch registers, copies of minutes of meetings, the concerned files and the relevant records had submitted the report which included the case under reference vide letter dated 11.12.2009. As per the report, the Committee verified/ compared the recommendation letter of the petitioner with the above-said records available in the department and found the same as correct except that the name of the allottee was mentioned as Gopal Krishan Srivastava instead of Gopal Kishan. The copies of the letter dated 11.12.2009 and the report of the Committee is annexed as Annexure R-2 respectively.

6. That it is submitted that with the clarification on the issuance of recommendation letter in the year 2009 itself and thereafter again in January 2022, stated supra, the writ petition may kindly be disposed as the petitioner has already been enjoying the possession of

the alternative plot so issued by the DDA pursuant to the recommendation letter dated 2.7.2004.

.....”

8. Considering the stand of the Land and Building Department, Government of NCT of Delhi, it is clear that the said department has denied categorically that it ever issued letter dated 09.01.2012. In that view of the matter, it is apparent that there is no letter as such issued by the Land and Building Department by which the recommendation in favour of the petitioner for allotment of alternative plot, has been kept in abeyance.

9. It is evident from the pleadings on record that the possession of the alternative plot has already been taken over by the petitioner in the year 2010 from the DDA on the basis of the Recommendation Letter issued in his favour. The petitioner has been in continuous possession of the alternative plot allotted to him. The respondent No.1 has already stated on affidavit that no such purported letter dated 09.01.2012 has been issued by it. Thus, the prayer as made in the present petition stands satisfied.

10. No other issue has been raised before this Court.

11. The present petition is disposed of in terms of the aforesaid observations that the prayer made in the present petition is satisfied on account of the stand taken by the Land and Building Department.

MINI PUSHKARNA, J

FEBRUARY 1, 2023/au