



2024:DHC:8361-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 486/2024, CM APPL. Nos. 34749/2024, 34751-52/2024

KELAWATI

..... Appellant

Through: Dr. Amit George with Mr. Ankit
Sinsinwar and Mr. Ravi Kumar,
Advocates.

versus

DDA

..... Respondent

Through: Mr. Ashim Vachher, Standing
Counsel for DDA.

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Date of Decision: 21st October, 2024**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, CJ (ORAL)**

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866 assailing the judgement dated 11th March, 2024 passed by the learned Single Judge whereby the underlying writ petition being W.P.(C) 15808/2006 filed by the appellant was dismissed.

2. The facts germane to the present appeal, shorn of unnecessary details and culled out from the writ petition, are as under:-

- (i) The appellant had applied for allotment of a plot of 90 sq.mts. under the Rohini Residential Scheme of respondent/DDA on 23rd March, 1981. The appellant raised the issue of non-consideration of her application under the Scheduled Caste category before the respondent/DDA. Since the allotment was not forthcoming, the

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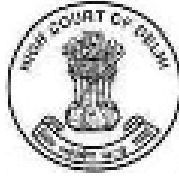
appellant filed W.P.(C) 3741/2002 seeking allotment of a MIG plot under the reserved category at the rates prevailing in the year 1992.

(ii) During the pendency of the said writ petition, plot bearing no.59, Pocket-8, Block-A, Sector-16, Rohini in Phase II ad measuring 60 sq. mts. was allotted to the appellant through a mini-draw held on 27th December, 2002. This Court *vide* order dated 8th August, 2003 disposed of the said writ petition with a direction that it was permissible for the appellant to accept the allotment made by the respondent/DDA and to make the requisite payment within four (4) weeks from the date of the order.

(iii) Aggrieved from such decision, the appellant had preferred an appeal, being LPA 620/2003, which was however dismissed on 5th September, 2003. Against the said order, the appellant preferred a Special Leave Petition being SLP No. 7001/2004 before the Supreme Court which was dismissed *vide* order dated 9th May, 2005.

(iv) The appellant, on dismissal of the said SLP, unilaterally deposited the amount demanded by the respondent authority for allotment of the subject plot. The appellant *vide* letter dated 12th July, 2005, requested the respondent/DDA for handing over the possession of plot. However, by way of letter dated 19th September, 2005/21st September, 2005, the respondent/DDA informed the appellant that the allotment made in her favor stood cancelled.

(v) Thereafter, the appellant approached the Commissioner, DDA by making a representation and requesting that the allotment of the appellant be restored. However, the said request of the appellant was denied *vide* letter dated 23rd December, 2005 stating that since the appellant had not replied to the Show Cause Notice issued on 18th

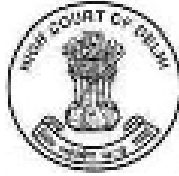


November, 2003, the plot was re-allotted in a draw. The appellant further made another representation before the Member of the authority on 12th January, 2006 however, the same was also rejected *vide* order dated 2nd February, 2006.

(vi) The appellant had filed the underlying writ petition aggrieved by the respondent authority's act of cancellation of the allotment in favor of the appellant and re-allotment of the said plot in favor of another person. However, learned Single Judge dismissed the underlying writ petition *vide* impugned order dated 11th March, 2024. Aggrieved by said decision, present appeal has been filed by the appellant.

3. Dr. Amit George, learned counsel for the appellant, at the outset, states that the underlying writ petition is of the year 2006 and the impugned judgment of the learned Single Judge dismissing the same after a passage of almost two decades, would work unfairly and unjustly towards the appellant.

4. Learned counsel for the appellant states that the appellant had made the requisite deposit in terms of the allotment letter within two months of the dismissal of the SLP *vide* order dated 9th May, 2005. He states that the delay in payment ought not to be held against the appellant. He states that though there were clear directions contained in the order dated 8th August, 2003 passed in W.P(C) 3741/2002 granting time of four (4) weeks from the date of order, to make the necessary payment and to submit the requisite documents *qua* the allotment of the subject plot, the same was delayed on account of the appellant preferring an appeal. He further states that the appeal was necessitated since the appellant who was entitled to a plot of 90 sq. mts. was actually allotted a plot of 60 sq. mts. by the respondent/DDA.



He states that yet another ground of challenge was with respect to the rates at which the payment *qua* the subject plot was to be made. He states that it was the contention of the appellant that *qua* the said plot, the rates prevailing in the year 1992 ought to have been made applicable to the appellant.

5. Learned counsel for the appellant further states that the appeal being LPA 620/2003 having been dismissed on 5th September, 2003, the appellant had preferred a Special Leave Petition bearing SLP No. 7001/2004 before the Supreme Court. While issuing notice, the Supreme Court had passed an interim order dated 2nd April, 2004 restraining the cancellation of allotment of the plot in favor of the appellant. He candidly submits that the said SLP however was dismissed on 9th May, 2005. He states that it was after the dismissal of the SLP, the appellant had made the requisite deposit *qua* the allotment of the subject plot, within two months. On the strength of the aforesaid submission, learned counsel for the appellant states that there was neither any willful nor deliberate delay on the part of the appellant to have deposited the requisite amount *qua* the allotment of the subject plot. He states that the case of the appellant be considered sympathetically.

6. This Court has heard the learned counsel for the appellant and has given anxious consideration and has examined the material on record.

7. This Court finds that the learned Single Judge has examined and scrutinized the entire records placed on record and found as a matter of fact that despite ample opportunities, the appellant had not made the requisite deposit towards the allotment of the subject plot in her favour. It is not disputed that *vide* letter dated 5th February, 2003 issued by the respondent/DDA, the appellant was required to make the necessary deposit

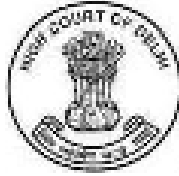


alongwith submission of requisite documents. It is clear from the impugned judgment as also the records before us that *vide* order dated 8th August, 2003 passed in W.P.(C) 3741/2002, the appellant was directed to deposit the necessary payment in terms of the letter dated 5th February, 2003 within four (4) weeks from the date of order. It is pertinent to note that the learned Single Judge in the order dated 8th August, 2003 had added a specific rider to the extent that “*on failure of the petitioner to do the needful within the aforesaid period of time, it will be open to the respondent to proceed and deal with the plot in any manner deemed proper*”. Undeniably, despite the clear directions in the order dated 8th August, 2003, the appellant had failed to comply with the same. It was only after the SLP filed by the appellant was dismissed by the Supreme Court on 9th May, 2005, the appellant had made the requisite deposit *qua* the allotment of the subject plot.

8. The records reveal that respondent/DDA had issued a notice to the appellant on 18th November, 2003 to show cause as to why the allotment be not cancelled for non-deposit of the demanded amount. Even this notice was not replied to by the appellant resulting in the respondent/DDA cancelling the allotment of plot in favour of the appellant.

9. The records also disclose that even before the Supreme Court had passed the interim order dated 2nd April, 2004, the respondent/DDA, ostensibly acting in furtherance of the rider provided in the order dated 8th August, 2003 by the learned Single Judge, had conducted a fresh draw of lots and re-allotted the said plot to a third party on 31st March, 2004. Thus, the submission of the appellant that the dispute was *sub judice*, to justify delay in making payment, is irrelevant.

10. The aforesaid facts disclose gross negligence on the part of the appellant which cannot be condoned in the circumstances before this Court.



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11. In view of the above, this Court finds no reason to interfere with the impugned judgement passed by the learned Single Judge dated 11th March, 2024. Accordingly, the appeal, along with the pending applications, is dismissed.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

OCTOBER 21, 2024

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