



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
% **Judgment reserved on : 22 August 2024**  
**Judgment pronounced on : 15 October 2024**  
+ W.P.(C) 14536/2022 & CM APPL. 44458/2022  
MANDHIR KAUR .....Petitioner  
Through: Ms. Garima Anand, Adv.  
  
versus

DELHI DEVELOPMENT AUTHORITY .....Respondent  
Through: Mr. Sanjay Katyal, Standing  
Counsel with Ms. Kritika  
Gupta, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE DHARMESH SHARMA**

### **J U D G M E N T**

1. The petitioner is invoking the extraordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India, 1950, thereby seeking the following reliefs:

“A) Issue a writ, order or direction in nature of certiorari or appropriate writ to the respondent (DDA) for calling for their records pertaining to file no. F-16(261 52) 201 2RMN having priority no. 9902 and application no. 27204;

B) Issue a writ, order or direction in nature of certiorari or appropriate writ to the respondent (DDA) for calling of Cancellation of allotment letter dated 03.03.2022 in respect of plot no. 1025 situated at Pocket-C 1, Sector 37, Rohini, area measuring 60 sqm., Plot Category-MIG allotted in favour of the petitioner vide Draw Result dated 02.07.2012 under Delhi Development Authority Rohini Residential Scheme 1981 and quash the said cancellation of allotment letter dated 3.03.2022;

C) Issue a writ, order or direction in nature of mandamus or appropriate writ directing the respondent to restore the allotment of plot no. 1025 situated at Pocket-C 1, Sector 37, Rohini, area measuring 60 sqm., Plot Category-MIG allotted to the petitioner vide file no. F-16(26152)2012RMN having priority no. 9902 and application no. 27204 on 02.07.2012 through Draw held under Delhi Development Authority Rohini Residential Scheme 1981;

D) Issue a writ, order or direction in nature of mandamus or



appropriate writ directing the respondent to issue a demand letter to the petitioner in respect of the plot allotted to the petitioner, charging her for the same at the old cost as per policy;

E) Pass any other order(s) this Hon'ble Court deem fit and appropriate in view of the facts and circumstances of the case in the interest of justice;"

2. The brief facts leading to the filing of the present writ petition can be traced back to the year 1981 when the petitioner i.e., Smt. Mandhir Kaur, who is now a senior citizen, and a resident of House No. 2776, Tri Nagar, Delhi-110035, got herself registered *vide* application No.27204 dated 16.03.1981 under the Middle Income Group ["**MIG**"] category of Rohini Residential Scheme, 1981 (hereinafter referred to as '**Scheme**') formulated by the respondent/Delhi Development Authority (hereinafter referred to as the '**DDA**').

3. More than 30 years later, an MIG plot bearing No. 1025, Pocket-C1, Sector 37, Rohini, admeasuring 60 square metres, was provisionally allotted to the petitioner under the draw of lots conducted by the DDA on 12.06.2012, subsequent to which some letters were exchanged between the DDA and the petitioner for compliance of certain formalities. It is the case of the petitioner that her correspondence address has remained the same till date.

4. The dispute between the parties is that the respondent/DDA has alleged that following a letter dated 15.03.2017 issued to the petitioner, thereby intimating her of the issuance of a demand-cum-allotment letter under the Scheme, a demand-cum-allotment letter dated 09.02.2018 was duly issued by the DDA to the petitioner at the same address, which assertion is denied by the petitioner to the effect that she never received any notice. Anyhow, as per the record



maintained by the DDA, due to consequent failure of the petitioner to make payment of the premium payable against the allotted MIG plot within the time period stipulated in the demand-cum-allotment letter dated 09.02.2018, the petitioner's allotment was cancelled *vide* letter dated 03.03.2022 allegedly issued to the petitioner. However, yet again, it is denied by the petitioner that any cancellation letter was sent to her at her address.

5. It is the case of the petitioner that since the alleged demand-cum-allotment letter dated 09.02.2018 was never served to her at her address, she could not make the payment of premium of the plot as per the terms and conditions of the said allotment letter, and therefore, the cancellation letter dated 03.03.2022 alleged to have been issued to the petitioner due to non-compliance of the terms of the demand-cum-allotment letter dated 09.02.2018 is illegal and in violation of the principles of equity and good conscience. It is stated that it was not until she made an inquiry before the DDA on 22.03.2022 regarding the status of her allotment, that it first came to the petitioner's knowledge that the allotment of the plot in question in her favour stood cancelled as on 03.03.2022 due to non-payment of the demanded amount against the allotted plot.

6. Thereafter, in the period from March 2022 till June 2022, the distraught petitioner claims to have filed multiple applications before the DDA, besides registering her grievance under the CPGRAMS<sup>1</sup>, as well as multiple applications under the Right to Information Act,

---

<sup>1</sup> Centralized Public Grievance Redress and Monitoring System



2005, seeking certified copies of the complete set of documents pertaining to the petitioner's allotment including the alleged allotment letter as well as cancellation letter, and for restoration of the said allotment, however to no avail.

7. It is pertinent to note that upon receipt of the grievance submitted by the petitioner on CPGRAMS, the DDA issued a letter dated 17.05.2022 to the petitioner at the same address of correspondence, thereby informing her of the cancelled status of her allotment, however, this time she received the said letter at her address. As the grievance of the petitioner has not been addressed by the DDA, she was constrained to file the present petition on 14.10.2022.

**PROCEEDINGS BEFORE THIS COURT:**

8. Upon acceptance of notice of the present writ petition, the DDA filed a counter affidavit dated 17.04.2023 before this Court, whereby the DDA has challenged the claim of the petitioner primarily on two grounds; *firstly*, on the ground that the petitioner never informed the DDA of any change in her correspondence address before the issuance of the demand-cum-allotment letter, and *secondly*, that the present petition suffers from inexplicable delay and laches. It is further contended that the present petition is a *mala fide* attempt by the petitioner to hide her failure to make due payments as demanded *vide* letter dated 09.02.2018 issued to her by the DDA.

9. *Vide* order dated 12.09.2023, this Court directed the DDA to file an additional affidavit pertaining to the current status of the plot in question, and to put on record all requisite documents in support of the contentions made by the DDA in their counter-affidavit, including the



proof of service of the demand-cum-allotment letter dated 09.02.2018. However, despite multiple opportunities being granted, no such proof of service or additional affidavit was placed on record by the DDA.

10. During arguments, learned counsel appearing for the petitioner urged that the DDA has falsely averred that the petitioner changed her address, which falsehood is evident from the fact that the letter dated 17.05.2022 which was issued much after the alleged issuance of the demand-cum-allotment letter, by the DDA to the petitioner at the same address, was duly received by her. Thus, if the DDA had in fact served the demand-cum-allotment letter, there would be no reason why the same would not have been received by her. Much mileage was also sought on the fact that the DDA did not file any proof of service of the demand-cum-allotment letter or the cancellation letter despite the directions of this Court, thus suggesting that the same were never served upon the petitioner and therefore, they deserve to be quashed.

### **ANALYSIS AND DECISION:**

11. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

12. First things first, with regard to the issue as to whether the petitioner was served with the letters pertaining to her allotment at her only known address, the onus to prove the service of the impugned demand-cum-allotment letter or cancellation letter shifted upon the DDA when the petitioner denied the service of the letters. Evidently, the DDA failed to discharge the onus in as much as it failed to place on the record any proof of service. If the DDA had placed any



document showing that the allotment letter was returned undelivered, the case of the petitioner herein would not have any leg to stand on.

13. But in the present facts and circumstances, the petitioner herein was presumably kept in the dark while the decision to allot and then cancel the allotment was made by the respondent/DDA. Accordingly, while invoking the principle of *Lex non cogit ad impossibilia*, the petitioner cannot be held liable for the cancellation of the allotment because of non-compliance of the stipulated terms of a letter, which was not brought to her knowledge until it was too late. Reference in this regard can be invited to decision in the case of **Amarjit Sharma v. DDA**<sup>2</sup>, wherein a Coordinate Bench of this Court observed as follows:

“28. As long as there is any other address of the applicant available in the records of the respondent/DDA, it remains its obligation to make every effort to direct the said letter to the said address as well. Even after making such attempts if the allotment letter is returned undelivered, then the respondent/DDA would be justified in stating that it cannot be blamed by a registrant for cancellation of the allotment.

14. Further, reference can be had to decision in the case of **Digvijay Singh v. D.D.A.**<sup>3</sup> wherein it has been held as under:

"6. Having failed to substantiate its claim that the demand- cum- allotment letter and the cancellation notice had been duly dispatched by the respondent/DDA and/or delivered to the petitioner, benefit of doubt ought to be given to the petitioner..."

15. As regards the objection pertaining to delay and laches, it is now well settled that any delay in preferring a legal remedy due to the continuous acts and omissions on the part of the DDA is condonable

---

<sup>2</sup> 2014 SCC OnLine Del 3087



in nature. In the present case, the time gap between the knowledge of cancellation of the allotment and the filing of the writ petition was not so protracted so as to suggest that the petitioner was sleeping over her rights or was being indolent. In fact, during that time, the petitioner was actively pursuing her case before other authorities so as to get her hands on the documents pertaining to her allotment, the possession of which documents she is rightly deserving of. In this regard, reliance can be placed on the decision of the Supreme Court in **DDA v. Mahinder Pal Sikri**<sup>4</sup> and the decision of this Court in the case of **Sudhir Kumar Dhingra v. DDA**<sup>5</sup>. Pertinently, the aforesaid cases have relied upon the decision in the case of **Shankara Co-op Housing Society Ltd. v. M. Prabhakar**<sup>6</sup> wherein it was observed as under:-

“53.....(1) there is no inviolable rule of law that whenever there is a delay, the court must necessarily refuse to entertain the petition; it is a rule of practice based on sound and proper exercise of discretion, and each case must be dealt with on its own facts. (2) The principle on which the court refuses relief on the ground of laches or delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there is a reasonable explanation for the delay, because court should not harm innocent parties if their rights had emerged by the delay on the part of the petitioners. (3) The satisfactory way of explaining delay in making an application under Article 226 is for the petitioner to show that he had been seeking relief elsewhere in a manner provided by law. If he runs after a remedy not provided in the Statute or the statutory rules, it is not desirable for the High Court to condone the delay. It is immaterial what the petitioner chooses to believe in regard to the remedy. (4) No hard and fast rule, can be laid down in this regard. Every case shall have to be decided on its own facts.  
XXXXXX XXXXXXXXXXXXXXXX”

---

<sup>3</sup> 2012 SCC OnLine Del 658

<sup>4</sup> 2013 SCC OnLine Del 4803

<sup>5</sup> W.P. (C) 3001/2016 dated 27.09.2024

<sup>6</sup> AIR 2011 SC 2161



16. In view of the aforesaid observations made by the Supreme Court, this Court in the case of **DDA v. Mahinder Pal Sikri (Supra)** wherein similar issues were raised about non-service of notices at the alternative address provided by the various applicants as also on the issue of there being delay and laches, observed as under:-

“13. Considering the facts of the present cases, it is claimed, and the DDA does not contest, that all writ petitions, with one exception, were filed in well under a year from the date of knowledge of the allotment letter, and even in LPA 302/2013, the period was 1 year and 5 months. Such periods do not amount to such inordinate delay as to bar the petitioner's legal remedy under Article 226. In fact, all the applicants had applied under the NPRS, 1979, and all allotment-cum-demand letters were issued at least after a period of one decade (as in LPA 302/2013), or as is the norm, after approximately two decades in the other matters presently in appeal. Given such a delay in processing the applications, and subsequently, either sending the letter to the wrong address, or not to all available addresses, the equities do not demand that the petitioner's valuable rights to the allotted plots can be defeated, especially when the time lag between the knowledge of allotment and the filing of the writ petitions is not so long as to state that the petitioners were being indolent. Rather, each petitioner discovered the fact of the allotment letter through his/her own accord, and subsequently, within a reasonable period, approached this Court for relief under Article 226. In such cases, this Court is the opinion that its discretion to bar the claim on account of delay or laches, i.e. to say that the petitioners' were negligent in pursuing their legal remedies, is not merited, and thus, the orders of the learned Single Judges on this aspect are not liable to be interfered with. This court is conscious of the fact that given the span of over two decades, - sometimes even more than three decades for an application to "mature" into an allotment, it would be unreasonable for the Court to impute negligence or deliberate inaction, since the registrants cannot be expected to have a constant or permanent address. These registrants were not possessing flats or residential accommodation, which impelled them to apply DDA; it is too much to expect them to live more than 20-30 years in one place.”



17. Lastly, it is also brought out from the record that no show cause notice was issued to the petitioner before cancellation of her allotment. The non-issuance of a show cause notice before cancellation of allotment in itself is an arbitrary and wrongful exercise of power and is in complete violation of the principles of natural justice. Reliance in this regard can be placed on the decision of this Court in **SP Kureel v. Delhi Development Authority**<sup>7</sup>, wherein it was held as under:

“5. One of the grounds raised by the learned counsel for the Petitioners is that atleast show cause notice was required to be issued to the Petitioners in accordance with the principles of natural justice before taking the drastic action of cancellation of allotment of the flats to each of the Petitioners. In support of his contention, the learned counsel for the Petitioners places reliance on a judgment of this Court in *Dhani Ram Kapoor v. DDA*, 1997 (1) AD (Delhi) 578.

...9. In *Dhani Ram Kapoor* this Court held as under:-

"3. Mr. Saini, learned counsel appearing for the petitioner, has contended that the amount raising from `1,29,400/- to `2,15,600/- in the facts and circumstances of the case is illegal and arbitrary. Mr. Saini has further contended that the cancellation of the flat by the respondent Authority after allotment without giving an opportunity of being heard, is totally arbitrary and illegal, more so, when the petitioner had deposited the full amount as demanded by the respondent and was also paying regular instalments. Mr. Saini has also contended that the respondent adopted double standards in treating the petitioner as in other cases where even the amount demanded by the respondent has not been deposited, the respondent Authority had issued show cause notices to them whereas in the case of the petitioner, even after the amount has been deposited and monthly instalments for two months have also been paid, without giving any notice the respondent has cancelled the allotment of the petitioner, which is against the principles of natural justice. Learned counsel has contended that even the cancellation order was not communicated to the petitioner. Mr. Saini in support of his contentions has cited the case of *Kanta Raju*

---

<sup>7</sup> 2013 SCC OnLine Del 4504



v. DDA C.W.P. No.587/1990 decided on 18.12.1990, in which it is held that:-

".....When a flat is allocated by a State Authority to a private citizen then that private citizen, like the petitioner, gets an interest therein. If the State authority wants to cancel such allotment or allocation, then the principles of natural justice will come into play. It will be contrary to the principles of natural justice if an allotment made is sought to be cancelled without any show cause notice."

10. Although the DDA pleads that there was misrepresentation, yet the same could have been explained by the Petitioners, had they been issued a show cause notice.

11. Thus, on the basis of law laid down in Dhani Ram Kapoor, the DDA was required to follow the principles of natural justice and to issue a show cause notice before taking the drastic action of the cancellation of the flat."

18. In view of the foregoing discussion, this Court has no hesitation in holding that the petitioner is entitled to the reliefs claimed by her against the DDA. Accordingly, the present writ petition is allowed. However, since during the course of hearing it was brought out that the plot allotted to the petitioner has since been auctioned and third party rights have been created, a writ for *mandamus* is passed, thereby directing the DDA to allot a plot in the same area to the petitioner measuring 60 sq. metres in the MIG category under the Rohini Residential Scheme based on the cost that was prevailing at the time when the present writ petition was filed i.e. 14.10.2022, within eight weeks from today.

19. The petitioner shall also be entitled to cost of the proceeding which is quantified at Rs. 1,00,000/-, which shall be adjusted in the allotment cost of the plot that would be allotted to the petitioner.



20. The pending application also stands disposed of.

**DHARMESH SHARMA, J.**

**OCTOBER 15, 2024**

*Sadiq*

Signature Not Verified

Digitally Signed By: PRANJAN  
KUMAR VATS  
Signing Date: 15.10.2024  
19:43:13

WP.(C) 14536/2022

Page 11 of 11