



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

% **Judgment reserved on : 08 October 2024**
Judgment pronounced on : 27 November 2024

+ **W.P.(C) 5420/2018**

JASBIR SINGH

.....Petitioner

Through: **Mr. Sumit Bansal, Mr. Udaibir
Singh Kochar, Mr. Utsav Garg
& Ms. Tulna Rampal, Advs.**

versus

DELHI DEVELOPMENT AUTHORITY

.....Respondent

Through: **Ms. Shahana Farah, Ms. Sanna
Harta & Ms. Aparna Tripathi,
Advs.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

JUDGEMENT

1. The petitioner is invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950, seeking issuance of an appropriate writ, order or direction, thereby declaring that the act of the respondent/DDA¹ in demanding current cost of the subject property from the petitioner as being arbitrary, illegal or void and for being contrary to the DDA's policy.

2. Shorn of unnecessary details, the father of the petitioner, namely, Late Shri Sujan Singh applied for allotment of a plot of land measuring 60 sq. mtrs. in 'Rohini MIG Scheme' on 09.03.1981 *vide* Application No. 47666, making a deposit *vide* FDR No. 06372, Priority No. 02128 for a sum of ₹5,000/- *vide* Receipt No. 7/72. It is

¹ Delhi Development Authority



the case of the petitioner that his father was allotted a plot bearing No. 92, Pocket 21, Sector - 24, Rohini, Delhi on 27.03.1991. However, the demand-cum-allotment letter dated 02.11.1993 was issued to an old address of the father of the petitioner in the records of the DDA, despite the fact that his father, after selling his old property No. 10255-56, situated in Gali Millwali, Ward No. XII, Mohalla Nawab Ganj, Azad Market, Library Road, Delhi – 110006, to one Smt. Saroj Devi, wife of Shri Rajinder Kumar *vide* a registered sale deed, had informed the DDA of this fact through a letter dated 26.04.1993 sent through UPC².

3. It is stated that the petitioner's father filed a representation on 18.03.1998 before the Hon'ble Lieutenant Governor and Vice Chairman, DDA, seeking restoration and re-allotment of the plot, explaining the predicament that the demand-cum-allotment letter was never received by him. Subsequently, for the first time, his father was informed that the allotment stood cancelled *vide* letter dated 03.09.1998, which was sent at the changed address of his father i.e. B-11, Industrial Area, G. T. Karnal Road, Delhi - 110033.

4. The petitioner states that his father passed away on 21.04.2007, following which he applied for the mutation of the aforesaid plot in his name on 01.09.2008 and he claims that he submitted all the relevant documents. However, he was informed about the cancellation of the allotment due to non-payment of the premium, and his request for restoration was declined.

² Under Postal Certificate



5. Aggrieved thereof, the petitioner filed a writ petition bearing No. 201/2010, which was dismissed *vide* order dated 20.01.2011. Although the petitioner filed a review petition bearing RP No. 151/2011 to recall the aforesaid order, the review was also dismissed *vide* order dated 12.08.2011.

6. It is the case of the petitioner that thereafter he made several representations to the DDA and attended public hearings, but to no avail. Eventually, after much persuasion, the Principal Commissioner (Land & Development) on 15.06.2012, opined that the representation of the petitioner required *de novo* consideration and the representation of the petitioner was approved for reconsideration by the Director (RL) on 02.09.2013. It is further stated that the petitioner submitted a detailed representation to the DDA, reiterating that his father had sold the afore referred property No. 10255-56 in the year 1991, and therefore, could not have received the demand-cum-allotment letter issued on 02.11.1993 at his old address under any circumstance.

7. It appears that the matter was examined by the then Vice Chairman, DDA, on 26.12.2014, and a detailed note was put up for the approval of the Hon'ble Lieutenant Governor, *inter alia*, stating that the case of the petitioner was squarely covered under the 'Wrong Address Policy'. The note was eventually approved by the Hon'ble Lieutenant Governor *vide* order dated 07.04.2015.

8. Upon the petitioner being intimated about the aforesaid decision on 14.05.2015, a mini draw was held on 30.12.2015, and initially plot No. 212, Sector 34, Pocket-A1, under the Rohini Residential Scheme,



1981³, was allotted to the petitioner *vide* letter dated 08.01.2016. However, upon the petitioner's request for a plot in a developed area, he was subsequently allotted the subject property viz., plot No.97, Pocket - A, Sector 2, Rohini measuring 60 sq. mtrs. under the RRS.

9. The registration of the plot was completed on 13.05.2016, and an allotment-cum-demand letter was issued on 23.08.2016, seeking a total premium at the rate of ₹52,787/- per sq. mtr. for 60 sq. mtrs., along with restoration charges at the rate of ₹300 per sq mtrs. The petitioner, admittedly, deposited an amount of ₹31,67,824/- with the DDA on 21.09.2016, and the possession of the aforesaid property was delivered to the petitioner and taken over on 19.10.2016. The conveyance deed was also executed in favour of the petitioner and his wife, Smt. Amrit Kaur on 15.03.2017.

10. After having acquired such benefits, the petitioner changed gears and reignited his grievance by filing representations dated 16.03.2017 and 07.08.2017 challenging that he had paid a sum of ₹31,67,824/- 'under protest' and sought refund of the excess amount, claiming that the premium for the plot should have been calculated as per the initial demand-cum-allotment letter dated 02.11.1993, which was never received by his father. As these representations were rejected by the DDA *vide* letter dated 15.09.2017, the petitioner filed the present writ petition.

11. Upon notice issued to the DDA, a counter-affidavit has been filed by Ms. Shabnam Kundra, Dy. Dir/LSB(Rohini) dated 11.10.2018 on behalf of the DDA in which, *inter alia*, it is pointed that the

³ RRS



representation of the petitioner for restoration of the allotment was placed before the Hon'ble Lieutenant Governor on 07.01.2012 and again on 30.10.2013 but the allotment was not restored and his request was rejected on 08.02.2013 and also on 18.09.2013.

12. Alluding to the order dated 20.01.2011 in W.P.(C) No.201/2008, it is pointed out that this Court, while dismissing the writ petition filed by the petitioner, categorically held that '*counsel for the Petitioner finds it hard to explain how the letter dated 18th March 1998 was accompanied by a copy of the demand cum allotment letter, when according to the Petitioner it was not received by his late father*'. It is, however, acknowledged that the case of the petitioner was subsequently reconsidered, and as a special case, the allotment of the subject property was made to the petitioner in a developed Sector but for which he has been charged the premium as per the prevailing pre-determined rates of the land, amounting to ₹31,67,824/-. It is deposed, *inter alia*, that the petitioner neither raised any protest nor made the payments under protest, as claimed in the writ petition; and therefore, it is submitted that the DDA is not bound to re-open the case and allow the petitioner to make payment of the premium in accordance with the original demand-cum-allotment letter 02.11.1993.

ANALYSIS & DECISION

13. Upon hearing the learned counsel for the parties and after carefully going through the record of the present case, this Court has no hesitation in holding that the relief claimed in the instant writ petition cannot be granted in law.



14. First things first, the claim of the petitioner for restoration of the initial plot of land, based on the alleged non-receipt of the demand-cum-allotment letter dated 02.11.1993, was unequivocally rejected by this Court in W.P.(C) No.201/2010. The plea of the petitioner that his father had sent an intimation to the DDA regarding the change of his residence *vide* letter dated 26.04.1993 was not accepted. Notably, this Court found that the letter dated 26.04.1993 appeared to be fabricated, holding as follows: -

- “4. The counsel for the DDA states that it never received the letter dated 26th April 1993. It is further pointed out that the said letter mentioned the details of the plot allotted although the DAL was not issued earlier than 2nd November 1993. Further, the house tax bill dated 15th September 1997 was apparently received by the Petitioner’s father at the old address.
5. Counsel for the Petitioner first submits that the details of the draw held on 27th March 1991 were displayed by the DDA on the notice board and, therefore, the Petitioner’s father would have mentioned the details thereof in his letter dated 26th April 1993 although this was more than six months prior to the date of the DAL.
6. This Court finds the above explanation of the Petitioner to be difficult to believe. It is highly unlikely that more than six months earlier to the issuance of the DAL the Petitioner’s father would have known of the details of the flat allotted.
7. Secondly, as regards the receipt of the house tax bill dated 15th September 1997 by the Petitioner’s father at the old address, it is contended by learned counsel for the Petitioner that one Rajender Kumar Gupta who was residing at the said old address collected and gave it to the Petitioner’s father. By the same analogy, the DAL could very well have been received by the Petitioner’s father. The Petitioner, however, claims not to have received it. This explanation is also not convincing.



8. Thirdly, counsel for the Petitioner finds it hard to explain how the letter dated 18th March 1998 was accompanied by a copy of the DAL when according to the Petitioner it was not received by his late father.
9. In the circumstances, this Court is unable to interfere with the decision taken by the DDA not to accede to the Petitioner's request for restoration of the allotment."

15. It is further pertinent to mention here that though the petitioner filed a Review Petition No. 151/2011, the same also came to be dismissed by this Court *vide* order dated 12.08.2011, which order reads as under: -

"1. Mr. Jagjit Singh, learned counsel for the Petitioner states in support of his present review petition seeking recall of the order dated 20th January 2011 that due to oversight, he could not draw the attention of this Court to the fact that on 10th October 1991 the property at 10255, Gali Millwali, Liberty Road, Azad Market, Delhi was sold by the Petitioner's father. The registered sale deed has now been sought to be placed on record. The Rev. Pet. No. 151/2011 Page 1 of 2 contention is that this would show that the father of the Petitioner was not residing at the said address after 10th October 1991.

2. The above fact did not however absolve the Petitioner's father from informing the Delhi Development Authority (DDA) of the change of address. This obviously was not done. This Court finds no ground having been made out to review the order dated 20th January 2011.

3. The review petition and the pending application are dismissed."

16. Faced with the aforesaid position, the learned counsel for the petitioner heavily relied on the notings from the file of the then Principal Commissioner (L&D and LM) (Annexure P-8), wherein it is recorded as under:-

"Shri Jasbir Singh has been representing and appearing in my public hearing a number of times regarding allotment of plot



under Rohini Residential Scheme, 1981. DDA cancelled the allotment on account of non response by the petitioner that he had not responded to the demand-cum-allotment letter issued on 2nd November, 1993. The petitioner has denied having receipt of the demand-cum- allotment letter as he had moved away from the earlier residence. The petitioner in turn has been indicating that he had intimated change of address on 26.4.1993, which DDA denies of having received.

DDA has further taken stand that a copy of the house-tax bill of 15th September, 1997 was delivered at his old address which conclusively demonstrates that the demand-cum-allotment letter was delivered and was received by the petitioner.

The petitioner had moved the High Court and High Court dismissed the petition on the following grounds:-

(i) that the petitioner had indicated the details of the allotment in his letter dated 25.4.1993, though, it was more than 6 months prior to the date of allotment.

As per laid down practice of DDA once the draws were concluded the results are displayed much before the actual allotment letters are issued, it is difficult to take a stand that petitioner could not have possessed the information about the details of the allotment while indicating the change of address.

(ii) The second ground that the house tax challan was collected by Shri Rajinder Gupta who delivered the same to the petitioner and by the same analogy the allotment letter could also have been collected and delivered by (Shri Rajinder Gupta). It is also difficult to take a stand that given the passage of time between 1993 and 1997, whether the persons who collected and gave the communications over time are the same or: different. It is also to be noted that house tax receipt was ironically for the plot of land allotted to the petitioner by DDA and it is not an assessment order in respect of property which has been occupied by him earlier.

(iii) As regards communication of 18th March, 1998 is concerned, there is no reference in the petition of the petitioner that he has enclosed a copy of the demand-cum-



allotment letter. It is difficult to ascertain as to how it got mentioned before the High Court.

Going by the above, it is felt that the case requires as review:-

[a] On terms of the legal position emerging after directions of the Hon'ble High Court. It may be pointed out that in its final order of August 12, 2011, the court acknowledged that the petitioner submitted to the court the registered Sale Deed of 10th October, 1991 demonstrating that he is not the owner of the premises after that date. However, the court took a stand that petitioner failed to inform DDA about the change of address. Accordingly, the benefit of doubt has been given to DDA. However, from the records, it is not made out that DDA has any proof of delivery of demand-cum-allotment letter. If DDA can deny receipt of the application from the petitioner for change of address, the petitioner is similarly placed in denying the receipt of the demand-cum-allotment letter from DDA. Further, DDA could have reminded the petitioner or issued Show Cause Notices for cancellation of the allotment, which was never done. This appears to provide the preponderance of the benefit of doubt in favor of the petitioner.

[b] If one goes through the affidavit filed by DDA before the Hon'ble High Court, there are many contradictions in the affidavit. For instance, para [iv] in the parawise comments indicating that in the communication of 26th April, 1993, the petitioner had intimated the particulars of his plot whereas allotment letter itself was issued 6 months later. In the same parawise comments, vide sub para (iv) it is contended by DDA that results of all draws conducted by DDA were declared in the leading newspapers from time to time. Prima facie para [iv] and [vi] are contradictory.

In the above circumstances, it is felt that this case requires de novo consideration. In the first instance, we shall request CLA for his comments."

17. Further, reliance is placed on the noting of the Vice Chairman, DDA dated 26.12.2014, which reads as under: -

"I have once again gone through the contentions in the file. Though it is a fact that the case has been agitated before the Hon'ble LG as well as Hon'ble Court when the applicant's intention has been dismissed. I see that Pr. Commissioner (LD) vide his note dated



22.01.2013 (page 64/N) has rightly observed that the applicant had moved out of the address to which demand letter was delivered and he did not received the letter. This is established from the note of the Commissioner (Housing) as at page 62/n as well. In this context, CLA has also opined vide his note at page 61/n that the property in which the letter had been sent had already been sold and hence the letter could not have been received by the present applicant or his father.

Under the circumstances, I am inclined to agree with the arguments made by the application from time to time. It is requested that the matter may be re-examined and put up afresh.”

18. It appears that the aforesaid note was put up before the then Hon’ble Lieutenant Governor of Delhi and it was proposed that the petitioner may be allotted a plot of land under the RRS, which order was communicated to the petitioner on 14.05.2015 which reads as under: -

**“DELHI DEVELOPMENT AUTHORITY
LAND SALES BRANCH (ROHINI)**

ROOM NO.111, 1st FLOOR, C-3
VIKAS SADAN, INA, NEW DELHI-23

No.F.25(1725)91/LSB(Rohini) 1971

Dated: 14.05.15

To

Shri Jasbir Singh
S/o Late Shri Sujan Singh
R/o B-15, 2nd floor, Sawan Park,
Ashok Vihar Phase-III, Delhi-110052.

Sub: Regarding allotment of alternative plot in lieu of plot No.92, Pkt.21,
Sector-24, Rohini under MIG category in Rohini Residential Scheme-
1981

Sir,

This has reference to your request dated 25.02.2015 on the subject cited above. In this regard I am directed to inform you that the Competent Authority has acceded to the request for allotment of alternative plot in lieu of plot No.92, Pkt.21, Sector-24, Rohini under MIG category in due course.

Your faithfully,

(Sharat Kumar)
Dy.Dir./LSB(Rohini)”



19. However, subsequently, *vide* letter dated 08.01.2016, he was allotted a Plot No.212, Pocket-A1, Sector 34, Rohini and upon his further request, he was allotted the subject property in Sector 2 viz. Plot No.97, Pocket-A, Rohini. This was accompanied by allotment-cum-demand letter (provisional) dated 23.08.2016, whereby the petitioner was called upon to make payment of ₹31,67,824/- towards the allotment and take possession after completing the requisite formalities.

20. The long and short of the aforesaid discussion is that the petitioner, without any demur or protest, opted to accept the allotment of the subject property at the prevailing cost at the relevant time consequent to concession afforded to the petitioner as a 'special case'. The possession of the subject property was then taken over by him on 19.10.2016 followed by execution of the conveyance deed on 15.03.2017. It was only subsequently that the petitioner attempted to introduce a new dimension to the case, contending that he should have been charged the premium in accordance with the original demand-cum-allotment letter dated 02.11.1993.

21. It is axiomatic that the relief sought in the present writ petition is discretionary. Moreover, the petitioner's past conduct has not been unblemished. This Court's observations regarding his conduct during the first round of litigation have raised doubts about his *bona fides*.

22. Surprisingly, the DDA officials, in an unprecedented move, reconsidered the allotment of a plot of land in the petitioner's favour at the then-current market rate/premium value. The petitioner did not raise



any objections or protests and was instead offered three alternative plots. He accepted the new offer at the prevailing rates and willingly acted upon it, paying the sale consideration without any reservations. There was no bar to the petitioner approaching this Court immediately after the DDA issued the allotment-cum-demand letter dated 23.08.2016.

23. There is merit in the plea of the learned counsel for the DDA that the sale of plots and flats by the DDA is commercial in nature, governed solely by the terms and conditions of the contract willingly executed by the parties. Once the petitioner has changed his position, taken possession of the subject property, and had the conveyance deed executed in his favour, he is neither legally nor equitably entitled to reclaim the premium/sale price. He cannot revert to the *status quo ante* and seek payment based on the original demand-cum-letter dated 02.11.1993.

24. In view of the foregoing discussion, the writ petition is dismissed.

DHARMESH SHARMA, J.

NOVEMBER 27, 2024
Ch