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

+ **W.P.(C) 1697/2023**

SMT. RAMESHWARI DEVI & ANR.

.....Petitioners

Through: Mr. Naveen Kumar, Ms. Poonam, Mr. Ujjal Das, Mr. Manvender Singh and Mr. Amit Kumar, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY AND ANR.....Respondents

Through: Mr. Gaganmeet Singh Sachdeva, Mr. Harsh Preet Singh Chadha and Mr. Hridyesh Khanna, Advocates for DDA.

Mr. Rajesh Sharma, Advocate for R-2/Central Bank of India.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **28.11.2025**

CM APPL. 6480/2023

1. This application is filed on behalf of the Petitioners under Section 151 CPC for condonation of delay of 23 days in re-filing the writ petition.
2. For the reasons stated in the application, the same is allowed. Delay of 23 days in re-filing the writ petition stands condoned.
3. Application stands disposed of.

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4. This writ petition is filed on behalf of the Petitioners under Article 226 of the Constitution of India seeking the following reliefs:-

“a) Issuing the direction to the respondent No.1, delhi development authority (DDA), to refund complete amount of Rs. 15,00,452/- (Fifteen Lakhs Four Hundred Fifty Two) along with interest with tune of 24% per



annual with cost and expenses incurred on the litigation by the Petitioners.

b) Or alternatively Issuing the direction to the respondent No.1, delhi development authority (DDA), to restore the allotment of flat No.53, floor III, Sector 34, Pocket 2 Block B1. Rohini, New Delhi;

c) Or alternatively Issuing the direction to the respondent No.1, delhi development authority (DDA), to allot any alternative flat of the same category, specification;

d) Issuing the direction to the respondent No.2 /Bank to provide the justification and Documents, why the Respondent No.2 /Bank withdraw the amount other than EMIs amounts of Rs. 13500/- without the consent, knowledge, and approval of Petitioners from the above stated loan amount No.3933769021

e) Issuing the direction to the respondent No.2 / Bank to adjust the amount of Rs. 3,88,370.00/- (Rupees Three Lakhs Eighty Eight Thousand Three Hundred Seventy), and correct/waive off the wrong interest and other charges in the loan account by the Respondent No.2 /Bank;

g) awarding the entire costs of the Petition in favour of the Petitioners against the Respondents;

h) any other order in the form of writ of mandamus or any nature of similar writs which this Hon'ble Court may deem appropriate in the facts and circumstances of the case may also be passed in favour of the Petitioners and against the respondents No.1 & 2, in the interest of justice.”

5. Case of the Petitioners as set out in the writ petition is that Petitioner No.1 is the wife of Petitioner No.2, who retired as a Naik from Indian Army after sustaining war injury on 12.03.1989 during the LTTE Peace Mission from 1987 to 1989. After retirement of Petitioner No.2, the family started living in their native village in Uttarakhand. Between 2013 to 2014, Petitioners came to Delhi as their daughter was diagnosed with Blood Cancer and while they were at Delhi they learnt of a Residential Scheme ‘DDA Housing Scheme 2014’ (‘Housing Scheme 2014’) launched by DDA and Petitioner No.1 made an application for allotment of the flat. Petitioner No.1 was successful in the draw of lots and accordingly, an allotment letter dated 28.05.2015 was issued allotting Flat No. 53, Floor III, Sector 34,



Pocket 2 Block B1, Rohini (LIG category).

6. It is averred in the petition that Petitioner No.1 applied for housing loan, which was sanctioned by Respondent No.2/Bank and an amount of Rs.12,70,734/- was directly transferred by the Bank into the account of DDA and the remaining amount of Rs.1,00,000/- was paid by Petitioner No.1 through Cheque bearing No. 708970 dated 23.09.2014. Petitioner No.1 also deposited Rs.75,000/- towards Delhi Government Environment Fund as directed by DDA, in addition to payment of Rs.48,165/- towards Stamp Duty for execution of the Conveyance Deed.

7. It is stated that from 2016 onwards Petitioners started repaying the loan to the Bank through EMIs in accordance with the loan facility, however, on 25.04.2016, DDA issued a Cancellation Letter. By letter dated 05.10.2016, Petitioner No.1 was informed that cancellation was on the ground that not being an Ex-Serviceman herself, Petitioner No.1 had applied in the Ex-Serviceman quota thereby violating Condition No.21 of Housing Scheme 2014. Bank also received this communication and wrote to DDA on 11.01.2018 to refund a sum of Rs.12,70,734/-. DDA, however, refused to refund the amount and several representations of the Petitioners for refund were of no avail. Bank instituted a suit for recovery of Rs.14,27,924/- on 30.11.2019 in the Court of District & Sessions Judge, District South West, Dwarka, Delhi being CS(COMM) 209/2019, which is pending adjudication.

8. Learned counsel for the Petitioners submits that forfeiture of the entire money deposited with DDA is illegal and arbitrary and amounts to unjust enrichment. The flat was never handed over to Petitioner No.1 and hence, no loss was caused to DDA, entitling it to forfeit the hard-earned money of the Petitioners. Petitioner No.1 had no intention whatsoever to commit any



fraud by filling up the form in the Ex-Serviceman category. Petitioner No.1 is an illiterate lady who has been living in remote village in Uttarakhand and filled the application form under a *bona fide* belief that because her husband was an Ex-Serviceman, she was entitled to apply in the said category. By no means, Petitioner No.1 intended to or even otherwise could have represented that she was an Ex-Serviceman herself. No documents were filed with application by which DDA was misled into believing that Petitioner No.1 i.e., the allottee was an Ex-Serviceman. Moreover, the application form was filled at the time when the young unmarried daughter of the Petitioners was undergoing treatment for Blood Cancer and Petitioners were under immense mental trauma.

9. It is urged that DDA has no right to retain the money paid by the Petitioner No.1 towards allotment of flat as the allotment was cancelled and consequently no possession was handed over. Reliance is placed on the judgment of this Court in ***Kulwant Singh v. DDA, 2019 SCC OnLine Del 7946***, where the question was of refund of the money deposited by the Petitioner towards allotment of flat and the Court had held that forfeiture of money of a citizen by a public authority is an extremely serious matter and *sans* authority of law, such forfeiture partakes of the character of misappropriation of the property of one by another. Right to Property is a Constitutional right and howsoever, be the conduct of the party, it cannot disentitle him/her to claim return of the money paid to a public authority, else it would lead to a situation of complete anarchy.

10. Mr. Gaganmeet Singh Sachdeva appearing on behalf of DDA justifies forfeiture and retention of money of Petitioner No.1 towards the cost of flat, which though allotted to her, was subsequently cancelled. It is submitted that



Petitioner No.1 has played a fraud on DDA by applying in a category which was reserved for Ex-Servicemen. Petitioner No.1 was declared successful for allotment of the subject plot in a draw of lots held on 25.11.2014 on cash down basis under the Ex-Servicemen category. Demand-cum-Allotment Letter was issued on 28.01.2015 with request to make payment as per the schedule. After the money was received and documents were submitted, it was found during the scrutiny of the documents that Petitioner No.1 did not fall under the Ex-Servicemen category and hence, the deposited amount was forfeited in terms of Condition No.21 of the Brochure which stipulated that if it is found that the applicant has falsely claimed the benefit of reservation, the application/allotment will be rejected/cancelled summarily and in case of such cancellation/rejection, all payment deposited against the application/allotment shall be forfeited. The ground for forfeiture was duly communicated to Petitioner No.1 vide letter dated 05.05.2016 *albeit* DDA declined the request of the Bank to refund the loan amount directly to the Bank. In light of these admitted facts, Petitioner No.1's claim for refund of the deposited amount cannot be entertained and writ petition deserves to be dismissed.

11. Heard learned counsels for the parties and examined their submissions.

12. Indisputably, Petitioner No.2, who is the husband of Petitioner No.1 was serving in the Indian Army as a Naik and having retired therefrom is an Ex-Serviceman. Petitioner No.1 applied for allotment of a flat in LIG category under a Residential Scheme floated by DDA in 2014. Petitioner No.1 was successful in the draw of lots and a Demand-cum-Allotment Letter was issued in her favour but the allotment was subsequently cancelled and



the reason cited by DDA was that she had applied in the reserved category of Ex-Servicemen while she is not an Ex-Serviceman. Petitioner No.1 only seeks refund of the amount deposited by her towards cost of flat, part of which was paid directly by her to DDA and the remaining was disbursed by Respondent No.2, which had sanctioned the housing loan to her.

13. It is true that it cannot be disputed that Condition No.21 of the Brochure provided that if the applicant falsely claimed the benefit of reservation, all payment deposited shall be forfeited. However, in the facts and circumstances of this case, I am unable to come to a conclusion that Petitioner No.1 had 'falsely' claimed the benefit of reservation. Application form, copy of which is appended to the counter affidavit shows that Column-9 required the applicant to fill in the category code and the Petitioner No.1 filled in 'EX'. Petitioner No.1 is an illiterate lady living in a remote village of Uttarakhand, facts which are uncontroverted. By looking at the application form, it is apparent that Petitioner No.1 filled in her category as Ex-Servicemen under a *bona fide* belief that since her husband was in the Indian Army and is an Ex-Serviceman, she was entitled to the benefit of the reserved category as a family. The fact that her husband is an Ex-Serviceman is also uncontroverted. Therefore, the form was filled under a *bona fide* belief and misunderstanding and it cannot be said that there was any intent to falsify the information. In fact, after the cancellation Petitioner No.1 sent several representations for refund of the money in which she pointed out that it was out of mistake that she had mentioned the category Ex-Servicemen and in the legal notice dated 17.05.2022, a categorical stand was taken on behalf of Petitioner No.1 that she had inadvertently ticked Ex-Servicemen in the box in the application form considering her husband is an



Ex-Serviceman. In any event, the allotment was cancelled and possession was not handed over to Petitioner No.1 and no loss is caused to DDA and in my view, Petitioner No.1 is entitled to refund of money, which has been retained by DDA since 2014.

14. Learned counsel for the Petitioners is right in his submission that case of Petitioner No.1 is squarely covered by the judgment of this Court in ***Kulwant Singh (supra)***, where DDA had cancelled the allotment of the plot and forfeited the money deposited by the Petitioner. DDA justified the forfeiture alleging fraud. In the said case, Petitioner registered himself for allotment of plot under the Rohini Scheme 1981 and paid the earnest money on 22.04.1981, however, registration was cancelled at Petitioner's instance and the earnest money was refunded. Owing to an error in the system, Petitioner's name was not deleted and continued in the records as a subscriber awaiting allotment. This led to allotment of a plot in the draw of lots held in 2012. In these facts of the case, the Court held that even though the perception of DDA that fraud had been perpetrated by the Petitioner may be justified, withholding of the money cannot be justified as right to property is a Constitutional right and cannot be trifled with, save and except, in accordance with law. It was observed that DDA was unable to produce any law empowering DDA to withhold monies of a citizen deposited with it on the ground that fraud had been perpetrated. Neither is vigilantism the forte nor is moral policing any part of the duties in law of DDA. The manner in which DDA decided to forfeit the amount indicates that forfeiture partakes the character of a punishment. Despite opportunities, DDA was unable to show any Act of Parliament or State Legislature or rule or statutory order having force of law which would empower forfeiture. It was



also observed that howsoever contemptible Petitioner's attitude or actions may be, they cannot disentitle him to be returned his money, else it would lead to a situation of complete anarchy in which public authorities could forfeit monies of citizens on the ground that they committed fraud, as perceived by the authority, without any statutory sanction. Later in 2024, a Division Bench of this Court in ***Delhi Development Authority v. Kiran Kaur and Others, 2024 SCC OnLine Del 4217***, held that forfeiture of money without authority of law is completely proscribed in law.

15. Following these judgments, I am of the view that for the *bona fide* mistake of Petitioner No.1 in having inadvertently filled up the form in the reserved category, a mistake obvious to common sense and logic in light of the fact that her husband is an Ex-Serviceman, the action of DDA in forfeiting the deposit towards the cost of the flat, which was not allotted finally, cannot be justified and does amount to unjust enrichment leading to a situation of anarchy.

16. For the aforesaid reasons, this writ petition is allowed directing DDA to refund a sum of Rs.14,18,899/- to Petitioner No.1 within 8 weeks from today. During the course of hearing, counsel for the Bank informs that the suit for recovery filed against Petitioner No.1 has been decreed in favour of the Bank and execution is pending. Be that as it may, it is for the Bank to prosecute the execution petition in the appropriate Court.

17. Writ petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

NOVEMBER 28, 2025

S.Sharma