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

% ***Date of Decision: 24th February, 2025***

+ **W.P.(C) 10178/2023**

USHA ANAND

.....Petitioner

Through: Mr. S. Rajan with Mr. Hitain Bajaj,
Mr. Ramesh Rawat, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ANR.

.....Respondent

Through: Mr. Tushar Sannu, Advocate for
DDA.
Mr. V.C. Bharti, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 74316/2024 (for production of documents and clarification)

1. Mr. Ashok Kumar Anand (since deceased) had been allotted LIG flat No.127, Sector 18B Phase-2, Dwarka.
2. He, unfortunately, died on 11.09.2009.
3. According to learned counsel for petitioner, the petitioner, who is widow of Mr. Ashok Kumar Anand, is survived by two legal heirs i.e. herself and Ms. Meenakshi Anand (daughter).
4. Petitioner also obtained a *Surviving Member Certificate* issued by the concerned Authority and approached DDA for adding her name in place of name of her deceased husband. Since nothing has been done by DDA, the present writ petition has been filed seeking writ of mandamus directing DDA to substitute name of the petitioner and then to execute a *conveyance deed* in her favour.



5. During course of the proceedings, the petitioner, herself, moved an application under Order I Rule 10 CPC, seeking impleadment of Mr. Nitin Anand, as one of the respondents.
6. According to petitioner, name of Mr. Nitin Anand was wrongly shown as co-allottee by DDA.
7. It, however, seems that the above said application seeking impleadment was moved by the petitioner on the basis of the averments made in counter affidavit filed by DDA.
8. In such counter affidavit, DDA took preliminary objection that the petition was defective on account of non-joinder of Mr. Nitin Anand, who was one of the legal heirs of late Mr. Ashok Kumar Anand and was also a co-allottee of the said flat.
9. It will also be important to mention that as per the stand taken by DDA, Mr. Ashok Kumar Anand, during his life-time, sent a communication to DDA requesting for including name of Mr. Nitin Anand as a co-allottee for the above said LIG flat and such request was acceded to by the respondent Authority and a communication to that effect was also sent to Mr. Ashok Kumar Anand on 26.12.2005.
10. Thus, according to DDA, as per the request received from the original allottee Mr. Ashok Kumar Anand, the name of Mr. Nitin Anand was registered as a co-allottee and, therefore, the name of the petitioner alone cannot be substituted in place of her deceased husband.
11. After hearing arguments for some time, Mr. Rajan, learned counsel for petitioner, while reserving his rights and contentions, submits that the petitioner would be satisfied if she is permitted to file a fresh representation before the Competent Authority, DDA with request to consider her



substitution in accordance with law and in a time-bound manner.

12. Mr. Rajan, learned counsel for petitioner, has no objection if, while considering the above said request, DDA even seeks a response from Mr. Nitin Anand.

13. Mr. Bharti, learned counsel for Respondent No. 3, has no objection in this regard. He submits that, as and when, he gets any notice in this regard from DDA, he would file appropriate reply.

14. Mr. Sannu, learned Standing Counsel for DDA, submits that direction, if given in this regard, shall be complied with but supplements that writ petition is not maintainable as primarily, there is dispute between two private parties as they both are seeking their substitution, after the death of Mr. Ashok Kumar Anand.

15. In view of the above, without expressing any opinion with respect to the merits of the case, the writ petition is disposed of with direction that the petitioner would be at liberty to file fresh representation to DDA seeking substitution of her name in place of her deceased husband Mr. Ashok Kumar Anand. Let such representation be made within a period of four weeks from today. In case, the same is made, DDA would, decide the same within further 12 weeks. DDA shall give a personal hearing to the petitioner and to Mr. Nitin Anand, before taking any final decision in the matter.

16. The next date before the Joint Registrar (J) stands cancelled.

(MANOJ JAIN)
JUDGE

FEBRUARY 24, 2025

sw/ss/ht/ss