(2013) 11 DEL CK 0394

In the Delhi High Court

Case No : WP (C) No. 2309 of 2008

Davinder Singh APPELLANT

Vs

Govt. of N.C.T. and Others RESPONDENT

Date of Decision : 21-11-2013

Acts Referred:

Citation : (2013) 11 DEL CK 0394

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Renuka Arora, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jain, J.—The petitioner before this Court is carrying on business in a non-conforming area at NZ-42, New Vishnu Garden, Khayala, New Delhi. On 3.10.1996, the petitioner applied for allotment of an industrial plot under the relocation scheme of the respondents vide application number 2261 and deposited a sum of Rs. 60,000/- (sixty thousand only) as earnest money. Vide letter dated 22.3.2000, the respondents informed the petitioner that though the Government had, through advertisement published in newspaper in July, 1999 and September, 1999, given an opportunity to all the applicants to file an appeal after ascertaining the status of their case on the specified telephone numbers, he had not filed any appeal/representation in the matter. It was further stated in the said communication that the petitioner was not found eligible for allotment of industrial plot/flat under the relocation scheme since he had not submitted any document to establish manufacturing activity prior to 19.4.1996 at the factory address given by him in the application. He was accordingly advised to approach DSIIDC for refund of the earnest money, deposited by him along with his application. Vide letter dated 9.2.2001, the petitioner claims to have requested the Commissioner of Industries, Delhi to take back his file from the office of DSIIDC and reconsider his case since he was interested in allotment of the industrial plot and not in refund. Vide reply dated 8.7.2007, furnished to the petitioner under Right to Information act, he was informed that his application for allotment under relocation scheme was rejected on the ground that (i) the address in the sales-tax form was different from the factory address given in the application form;(ii) No Government document to prove manufacturing activity prior to 19.4.1996 at the given factory address in the application form was submitted. He was further informed that the earnest money was refunded to him in the year 2000.

Being aggrieved from refusal of the respondent to allot any plot to him, the petitioner is before this Court seeking the following relief:-

a. direct the respondent to consider the application as well as the appeal/ reminder filed by the petitioner for allotment of industrial plot under the reallocation scheme.

b. direct further the respondent to dispose of the appeal filed by the respondents without making any delay.

2. In its counter-affidavit, the respondent-DSIIDC has stated that the petitioner had failed to furnish documents establishing existence of his industrial unit prior to 19.04.1996, which was a pre-requisite condition for allotment of a plot under the relocation scheme since only the units located in a non-conforming area were eligible for allotment of such plots. It is further stated in the counter-affidavit that the address of the petitioner given in the sales tax form is different from the factory address given by him in the application form and he had failed to submit documents showing manufacturing activity prior to 19.04.1996 at the factory address given in the application form and being not eligible for allotment of an alternative plot, his case was not recommended for such allotment. It is further stated in the counter-affidavit that on 04.10.2000, the petitioner was refunded the entire amount vide cheque No. 469293, sent with forwarding letter dated 04.10.2000.

3. The petitioner, who is present in Court, admits that he had received the refund through his bank. He states that he had taken a loan of Rs. 45,000/- from the bank in order to deposit earnest money, amounting to Rs. 60,000/- with the respondent and the bank, after deducting the amount of the loan, paid the balance amount to him.

4. The petitioner having taken refund of the earnest money, deposited by him with the respondent, is no more entitled to seek allotment of industrial plot from the respondents, since accepting the refund of the earnest money amounts to withdrawal of the application for allotment of an alternative industrial plot.

5. The petitioner, who is present in the Court, states that pursuant to the advertisement published in the newspaper in July, 1999 and September, 1999, he had also filed an appeal to the Commissioner of Industries on 9.02.2001 for reconsideration of his application for allotment of an industrial plot under the relocation scheme. A perusal of the public notice given in the newspaper, a copy

of which the petitioner has today produced in the Court, would show that the respondents decided to re-examine the cases of the applicants, who were found ineligible for allotment of industrial plots/flats and 15.02.2001 was fixed as the last date for depositing the relevant documents in this regard. The documents required to be submitted by the applicants were also specified in the said public notice. The case of the petitioner is that he had applied to the Commissioner of Industries on 09.02.2001 for re-consideration of his case.

The case of the respondents, however, is that the aforesaid representation/ appeal was never received by them. A perusal of the document placed at page No. 42 of the paper book would show that the stamp affixed on the right top side of the letter dated 9.2.2001 does not bear any receipt number though there is a column for giving receipt number. There is an initial below the stamp which bears date 9th February. On the other hand, 2234/12.2.2001 has been written by hand on the left side of this letter, which, presumably, indicates that the letter was received vide diary No. 2234 on 12.2.2001. The aforesaid discrepancy needs to be considered in the light of the case of the respondent that the aforesaid representation/appeal was never received in their office. Therefore, submission of the letter dated 9.2.2001 to the Commissioner of Industries appears to be highly doubtful.

Be that as it may, in my view, once the petitioner accepted the refund money sent to him by the respondents, he became ineligible for allotment of an alternative industrial plot under the Relocation Scheme of the respondents.

A perusal of the letter dated 22.3.2000 issued by the respondents to the petitioner would show that he did not submit any Government document to establish manufacturing activity prior to 19.4.1996 at the given factory address. In the application, the petitioner had disclosed his address to be NW-42, New Vishnu Garden, Khyala, New Delhi. However, his address in the Sales Tax Assessment Order for the Assessment Year 1995-96 is given as NW-42, New Vishnu Garden Extension, Khyala and this is not the case of the petitioner that New Vishnu Garden is not different from New Vishnu Garden Extension. On the electricity bill dated 8.1.1996, which is available at pages 38/39 of the paper book, the address disclosed is NW-42, Narsingh Garden, which is an address totally different on the application as well as the address given in the Sales Tax Assessment Order. The address given in the telephone bill available at page 34 of the paper book is NW-42, Khyala Village, Vishnu Garden, whereas the address given by the petitioner in his affidavit dated 24.12.1996 available at page 32 is NW-42, New Vishnu Garden, Khyala, New Delhi. The address given in the rent receipt is NW-42, New Vishnu Garden, Khyala tallies with the address given in the application, but does not tally with the address given in the Government document such as Sales Tax Assessment Order. However, the address of Mr. S. Balwant Singh who is purported to have issued the aforesaid rent receipts, disclosed in the electricity bill, as noted earlier, is NW-42, Narsingh Garden. It would, thus, be seen that the petitioner has filed documents giving different addresses in support of his case that he was running a non-conforming industry prior to 1.4.1996 and this is not his case that the different addresses disclosed in various documents filed by him pertained to one and the same premises.

For the reasons stated hereinabove, I find no merit in the writ petition and the same is dismissed. No orders as to costs.

