

(1994) 05 RAJ CK 0027
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7001 of 1993

Devesh Goyal

APPELLANT

Vs

The Rajasthan Housing Board and Others

RESPONDENT

Date of Decision : 09-05-1994

Acts Referred:

Citation : (1995) 2 RLW 159 : (1994) 2 WLC 441 : (1994) 2 WLN 273

Hon'ble Judges : R.S. Kejriwal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.S. Kejriwal, J.—None present for respondent No. 3 in spite of service of notice.

2. In this writ petition, the petitioner has prayed that re-allotment of House No. 5/143 situated in Malviya Nagar, Jaipur in favour of respondent No. 3 be declared as illegal and void and the respondent No. 1- Rajasthan Housing Board be directed to allot the said house to the petitioner. In the alternative, it has been prayed that a writ of mandamus be issued directing the respondent- Rajasthan Housing Board to allot the petitioner an alternative suitable accommodation of equal or larger size in lieu of Plot No. 5/143 in Malviya Nagar Scheme of Rajasthan Housing Board, Jaipur.

3. The brief facts of the case are that on 4.12.1993 the petitioner filed the aforesaid writ petition with the allegations that the Rajasthan Housing Board (hereinafter called "the Board") advertised in Navjyoti on 1.10.1992 mentioning that 112 houses situated in Malviya Nagar, Jaipur of different categories of income-groups were to be auctioned by the said Board. This advertisement was subsequently repeated in Rajasthan Patrika dated 31st January, 1993. In this advertisement, the factum of cancellation of allotment of the defaulting allottees including the allottee of House No. 5/143 in Sector No. 5 of Malviya Nagar Scheme, Jaipur was also mentioned. This was again advertised by the Board on 24.2.1993 in Rajasthan Patrika. In pursuance of aforesaid advertisement dated

24.2.1993, 9 houses situated in Malviya Nagar, Jaipur were auctioned on 26.2.1993. Petitioner's bid for House No. 5/143 of LIG category was of Rs. 1 lac and the same was highest. The petitioner deposited Rs. 10,000/- in cash on the same day. He again deposited Rs. 15000/- on 27.2.1993. The Property Allotment Committee of the Board recommended for accepting the bid of the petitioner and later on the Chairman of the Board approved the same and thus, the bid of the petitioner was finally accepted on 27.2.1993. Later on, on 5.3.1993, the respondent No. 3 deposited the amount to the Board and the Board re-allotted the House No. 5/143 situated in Malviya Nagar, Jaipur to the respondent No. 3. The petitioner approached several times to respondents No. 1 and 2 for allotting the said house to the petitioner on receipt of the balance amount. The Chairman and the Deputy Housing Commissioner of the Board assured the petitioner for allotting an alternative house of the same size and accommodation in the same colony but instead of allotting a house of the same size and accommodation in the same colony, the respondents 1 and 2, allotted the petitioner a house, No. 119/431 in Mansarovar Colony, Jaipur, accepting the bid of the petitioner which was given by him on 26.2.1993 for house in Malviya Nagar Scheme, Jaipur. The measurement of actual land of this house is less by atleast 1/4th to the house of Malviya Nagar Colony. Malviya Nagar Colony is more developed in comparison to Mansarovar Colony. The cost of land in Mansarovar Colony cannot by any stretch of imagination be at par with that of Malviya Nagar Colony. It is further mentioned by the petitioner that more than 100 houses of the same category are presently available with the respondents in Malviya Nagar Colony but the respondents are not allotting a house of the same size and accommodation in Malviya Nagar Colony. The petitioner has also given list of the houses which are vacant in Malviya Nagar Colony, when the non-petitioners did not give any heed to the request of the petitioner for either allotting House No. 5/143 situated in Malviya Nagar Colony, Jaipur to the petitioner or any other suitable house in Malviya Nagar, the petitioner had to file the present writ petition with the prayers mentioned as above.

4. Notice was issued to the respondents but they did not file any reply in spite of time granted to them from time to time. Under these circumstances, I have to accept the facts mentioned in the Writ Petition, which are duly supported by an affidavit of the petitioner. The petitioner's bid for House No. 5/143, in Sector No. 5, Malviya Nagar Colony, Jaipur, was accepted by the respondents No. 1 and 2 on 27.2.1993. The petitioner deposited Rs. 10,000/- for this house with the respondents No. 1 and 2, on 26.2.1993. He further deposited Rs. 15,000/- on 27.2.1993, on acceptance of his bid and under these circumstances, the petitioner has a legal right to get the said house allotted in his favour. The respondents No. 1 and 2 had no right or jurisdiction to get the balance amount deposited from the respondent No. 3, on 5.3.1993, when the bid of the petitioner was already accepted on 27.2.1993. The respondents No. 1 and 2 did not disclose under what circumstances, they re-allotted the House to the respondent No. 3. The file of the Board was not produced by the counsel for the respondents

No. 1 and 2, inspite of time granted to him. The Board has been constituted for solving the housing problems of residents of urban area of Rajasthan, but it appears that instead of solving the Housing, problems, it has been creating problems to those persons who applied for allotment of houses. Though the counsel for the petitioner has claimed that the same house be allotted to him, for which has bid of the petitioner was accepted with damages at the rate of Rs. 800/- per month, as awarded by this Court in S.B. Civil Writ Petition No. 3752/1992, Anand Singh Bhandari v. Rajasthan Housing Board, decided on 1.4.1994, but I do not agree with the submissions of the counsel for the petitioner as in the present case, the petitioner did not deposit the full amount of the bid. Under these circumstances, I have no option but to allow the Writ Petition. The respondents No. 1 and 2 are directed to allot House No. 5/143, in Section No. 5 of Malviya Nagar Colony, Jaipur, to the petitioner, within a period of two weeks from today, after cancelling the allotment in favour of respondent No. 3. They are further directed to pay interest on the amount deposited by the petitioner with them at the rate of 18% p.a. as prayed by the petitioner and to give him reasonable time to make payment of balance amount. The petitioner will deposit the same with the Board. In case the respondents No. 1 and 2 feel difficulty in allotting the House No. 5/143, in Sector No. 5 of Malviyanagar Colony, Jaipur, to the petitioner, they are directed to allot House No. 5/30 of M.I.G. (A), in Malviya Nagar, Jaipur, to the petitioner within the aforesaid time. If the area of the house is larger than the house which was previously allotted to the petitioner, the Board may charge proportionate higher amount from the petitioner for the excess are. I am conscious of this fact that on account of this judgment, the Board may suffer some losses, but this situation has been created by some officer/officers of the Board, who was/were interested in the respondent No. 3. The Chairman, Rajasthan Housing Board is directed to insitiate enquiry against the person/persons, who is/are found to be guilty of the same and recover all losses suffered by the Board from him/them.

5. With these observations, the Writ Petition is allowed with cost of Rs. 2,000/- to the petitioner.

6. A copy of this order be sent to the Chairman, Raj. Housing Board, Jaipur & to the Chief Secretary, Government of Rajasthan, Jaipur.