
(2000) 04 DEL CK 0020
In the Delhi High Court
Case No : CW. No. 1336 of 2000

L.N. Soni

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 27-04-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 56 DRJ 98

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Mr. Bhupesh Narula, for the Appellant;

Judgement

Manmohan Sarin, J.—Petitioner is aggrieved by letter dated 17.12.1999, Annexure-E, appearing at page 77 of the paper book, by which the petitioner's application for granting conversion of leasehold rights into freehold rights in respect of his flat over a shop has been declined. Respondents while declining the request for conversion stated that the amount of conversion fee, remitted alongwith the application would be refunded shortly.

2. Petitioner has a lease in respect of residential flat No.52, First Floor, Khan Market, New Delhi, which is in occupation of a tenant. There is a shop underneath. The position, Therefore, is that as far as the plot is concerned shop on the ground floor is commercial while flat is residential.

3. Learned counsel for the petitioner submits that in this case, flat is fully built up and petitioner is entitled to the benefit of conversion. On reading of the policy, I am unable to agree with the submissions. The policy starts with, "Considering the long pending demand from the public for converting the leasehold system of land tenure into freehold, the Government had decided to sanction the conversion to freehold in respect of purely residential leases of all flats/tenements and built up plots up to 500 sq. meters of area. Learned counsel also relies on the portion of the policy, namely,".....Now all built up residential

properties will be eligible for conversion irrespective of the area of the plot. The earlier decision of the Government to offer the convenience of the payment of these amounts in a maximum of five equal annual installments to ease the burden on the public will also continue." He further relies on clause 2.1, "Conversion from leasehold to freehold in respect of all tenements i.e., 'C' type and 'A' type tenements allotted by Department of Rehabilitation or L&DO is compulsory."

4. Based on the above, learned counsel submits that in fact the petitioner is obliged to get it converted from leasehold to freehold premises being a "C" type tenement. On a reading of the policy, I am unable to agree with the petitioner. One essential ingredient, which runs through the entire policy is the purely residential character of the lease and built up properties on the plot. In this case, admittedly the premises have a ground floor, which is a shop for commercial use and the residential flat is only on the first floor. The request of the petitioner has been denied on the ground that there was presently no policy, which covers conversion for leasehold rights of flats over shops. The shop on ground floor is commercial, while the first floor flat is residential. It cannot be said that the plot of which conversion is sought is wholly residential. The plot is an undivided one. Both would have undivided leasehold interest in the land underneath. It may be that the petitioner's lease in respect of the flat over the ground floor is a residential one. However, the policy of the DDA, which at present makes available the facility of conversion, is applicable only to purely residential units. It cannot be assailed, as being hit by Article 14 of the Constitution of India for not making a provision for conversion of flats over shops or of plots having built up portions, which are both residential and commercial.

5. The writ petition has no merit and is dismissed in limine.