

(2013) 03 DEL CK 0220
In the Delhi High Court
Case No : LPA 850 and 852 of 2012

Om Prakash

APPELLANT

Vs

DDA and Others
 Sant Plastic Company Vs Delhi
Development Authority and Another

RESPONDENT

Date of Decision : 07-03-2013

Acts Referred:

Citation : (2013) 03 DEL CK 0220

Hon'ble Judges : D. Murugesan, C.J;V.K. Jain, J

Bench : Division Bench

Advocate : Sumit Kumar Khatri, Mr. Devendra Kumar Sharma and Ms. Rubi Chauhan, for the Appellant; Rajiv Bansal and Mr. Rahul Bhandari for DDA, for the Respondent

Final Decision : Disposed Off

Judgement

1. The appellants before this Court are carrying on business in PVC Market, Jawalapuri, New Delhi. The respondent-Delhi Development Authority came out with a scheme to shift the aforesaid market from Jawalapuri to some other place and for that purpose offered plots to those who were doing such business in Jawalapuri, Tikri Kalan, Delhi. In the year 2000, DDA decided to allot plots measuring 45-55 sq. meters to those traders who were holding plots measuring 21 sq. meters each and plots measuring 125-131 sq. meters to those who holding plots measuring 85 sq. meters each. In terms of the said decision, DDA sent a letter to the President of PVC and Plastic Waste Dealers' Association on 12.01.2000 requesting him to convey to all the members who were allotted plot in PVC Market, Jawalapuri or were legal transferee of such plots to apply in the prescribed format for allotment of alternative plots in PVC Market, Tikri Kalan, Delhi by 31.01.2000. It was further informed that the premium for land at Tikri Kalan had been currently fixed @ Rs. 7,374/- per sq. meter for plot size of 124 sq. meter to 131.75 per sq. meter and Rs. 6,146/- per sq. meter for plot size of 25.20 sq. meter to 53.50 sq. meter. He was also informed that if the allottee

surrendered the original plot allotted at PVC Market, Jawalपुर, they would be charged @ 3,687/- per sq. meter for a plot size of 124 sq. meter and 131.75 sq. meter and Rs. 3,492/- per sq. meter for plot sizes from 25.20 sq. meter to 52.50 sq. meter. The said rates were to be applicable up to 31.3.2000. The traders carrying on business in PVC Market, Jawalपुर, however, were not satisfied with the area of plots DDA proposed to allot to them and wanted plots of bigger size with increased FAR. In the year 2006-07, the DDA revised the rates of the plots from Rs. 7,374/- per sq meter to Rs. 9,813/- per square meter and issued letters asking the appellant to deposit the amount calculated at the aforesaid rate within 60 days. The petitioners in W.P. (C) Nos. 4026/2011, 4027/2011, 6850/2011, 4028/2011, 4029/2011, 4031/2011, 4032/2011, 4034/2011, 4035/2011, 4036/2011, 4038/2011, 6719/2011, 6724/2011, 6725/2011, 6848/2011, 6849/2011, 6851/2011, 1354/2012, 1355/2012, 1363/2012 and 1367/2012 deposited varying amount in the year 2006-07 but none of them except the petitioners in W.P. (C) Nos. 4027/2011, and 6851/2011 deposited the entire amount demanded by DDA. In the year 2011, DDA further enhanced the land rates to Rs. 16,931/- per square meter, and issued allotment letter in respect of plots measuring 300 square meters each to them at the aforesaid rate of Rs. 16,931/- per square meter which also was stated to be a provisional rate. Being aggrieved from the aforesaid decision, a number of writ petitions were filed in this Court. The said petitions except WP(C) No. 4027/2011 and 4029/2011 were dismissed, granting four weeks time to said petitioners to pay the land premium, demanded by DDA, after adjusting the payment already made by them. The petitioner in WP(C) No. 4027/2011 and 4029/2011 were held to be entitled to allotment of plots allotted to them at the pre-determined rate of the year 2007 i.e. Rs. 9813 per square meter, on the ground that they had promptly paid, from time to time, the amount demanded by DDA.

2. During the cause of hearing, having noticed that DDA had never offered plots measuring Rs. 300 per square meter each to the appellants at a rate less than Rs. 16,931/- per square meter and the earlier communication sent by DDA with respect to allotment of plots at Tikrikalan were in respect of plots measuring 125 to 131.75 square meters each, and, therefore no legal right accrued to them for allotment of plots measuring 300 sq. mts. each, at the rate of Rs. 7,374/- or Rs. 9,813/- per sq. mtr., we asked the learned counsel for the appellant to take instruction as to whether the appellant wanted smaller plots at the pre-revised rates or they wanted plots measuring 300 square meters @ Rs. 16,931/- per square meter. Learned counsel appearing for the appellant, on instruction, stated that the appellant wanted only plots measuring 300 square meters each even if they have to pay higher price, but do not want plots of lesser size even on the lesser rate. He, however, submitted that either DDA should not charge any interest on the balance amount payable by the appellants @ Rs. 16,931/- per square meter or if it is not possible the appellant should be given one year time to make payment, along with NOC to mortgage the aforesaid plots with the banks/financial institutions, so as to raise loan for payment to DDA. This,

however, was strongly opposed by the learned counsel appearing for DDA. He, however, fairly stated that DDA is ready to grant three more months to the appellants to pay the balance amount at the rate Rs. 16,931/- per square meter, along with interest on the balance amount at the rates stipulated by DDA in this regard.

3. Since the appellant did not make payment within the time stipulated in the allotment letter issued by DDA in respect of plot measuring 300 square meter each, they are required to pay interest on the balance amount calculated @Rs. 16,931/- per square meter, which still remain payable by them to DDA. As regards extension of time for making the balance payment, we are of the view that a period of three months for this purpose would be adequate. As regards grant of NOC for the purpose of raising loan against the plots offered to the appellant, they can apply to DDA and such a request, if made by them, shall be considered by DDA as per its rules and policy in this regard.

For the reasons stated hereinabove, we dispose of all the appeals by granting time to the appellants to pay the balance amount calculated @ Rs. 16,931/- per square meter along with interest at the rate of 12% per annum on that amount, within a period of three months from today, failing with DDA shall be entitled to withdraw the offer/allotment made to the appellants. We also direct that if the appellants apply to DDA for issue of NOC/permission required to raise loan against the plots allotted to them, such request would be considered and decided by DDA as per its rules and policy in this regard, within two weeks of receipt of such a request. We also direct DDA, to communicate to the appellants within two weeks from today the balance amount payable by them along with interest @ 12% per annum calculated up to the date of the said intimation.

The appeals stand disposed of with above order.

There shall be no order as to costs.