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**(2005) 02 DEL CK 0110**  
**In the Delhi High Court**  
**Case No : WP (C) 2080 of 2002**

Rajinder Pal Malik

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

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**Date of Decision :** 09-02-2005

**Acts Referred:**

**Citation :** (2005) 02 DEL CK 0110

**Hon'ble Judges :** S. Ravindra Bhat, J

**Bench :** Single Bench

**Advocate :** N.S. Dalal, for the Appellant; Rajat Gaur, J.M. Sabharwal and Anusuya Salwan, for the Respondent

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## **Judgement**

S. Ravindra Bhat, J.

Rule.

1. With the consent of the parties the matter is taken up for final disposal today.
2. In this Petition, a direction has been sought against the DDA to treat the petitioner as entitled to a plot in Category-B, in terms of the Gadgil Assurance Scheme, formulated by the Respondents.
3. The petitioner had earlier approached this Court by way of a writ petition being CWP. No. 1588/1984. In the course of those proceedings, initially an Order dated 22nd April, 1991, was passed which noticed that the counter affidavit of DDA was vague inasmuch as the manner and method of categorising the applicants into Categories A, B and C was not properly explained.
4. In those proceedings a final order was passed on 18th September, 2001. On the basis of the pleadings and submissions of DDA, it was recorded that the petitioner agreed to accept a Category B plot by his letter dated 26th November, 1980. In that view, the petition was disposed of with a direction to allot one such plot to the petitioner by December 31, 2001.

5. Petitioner appears to have moved application seeking modification of the Order of the court dated 18.9.2001 and also filed a review petition. Those were not entertained. In this petition, the grievance made is that in reality the petitioner is entitled to a Category A plot and not a Category B plot. It is urged that the petitioner was misled into agreeing to allotment of a Category B plot.

6. Learned counsel appearing for the petitioner has reiterated the contentions raised in the petition. He also places reliance on certain documents to show that there were limited categories of people in Category A, B and C and that as per the eligibility spelt out by the DDA, the petitioner was entitled to Category A plot.

7. The grievances sought to be agitated here were squarely raised, considered and disposed of by a Division Bench. A modification of the order of the Division Bench was sought, unsuccessfully by the petitioner. In these circumstances, it is not open to the petitioner to reagitate the same. Interference in these proceedings would amount to reopening a decided issue and which has attained finality. That apart, the previous orders having been passed by a Division Bench are binding. In view of the above, the grievance with regard to the categorisation cannot be gone into.

8. Learned counsel for the petitioner submits in the alternative that the benefit granted by the Division Bench, namely, allotment in Category B may be given effect to. As far as this aspect is concerned, learned senior counsel appearing for DDA submits that contempt proceedings were taken out by the petitioner being CCP. No. 62/2002. The petitioner was offered allotment in respect of a Category B plot, namely 8A/79G, Western Extension Area, Karol Bagh, New Delhi measuring 25 sq.yds. However, one of the conditions was that the final price would be as directed by the Court, in view of pendency of litigation.

9. The records admittedly disclose that the directions of the Division Bench were to the effect that a Category B plot had to be given by 31st December, 2001. Therefore, the DDA is directed to ensure that possession of a Category B plot (as directed by Division Bench Order dated 18th September, 2001), is handed over, within 8 weeks. The cost to be charged has to be as on the date of the said order dated 18.9.2001. The delay if any in making the allotment shall not be considered for increasing the cost, or charging any interest.

10. The Writ Petition is disposed off with the above directions with no order as to costs.