

(2012) 02 CHH CK 0022
In the Chhattisgarh High Court
Case No : Writ Petition No. 4309 of 2004

Satya Prakash Dhingra

APPELLANT

Vs

Municipal Corporation Bilaspur and Others

RESPONDENT

Date of Decision : 16-02-2012

Acts Referred:

Citation : (2012) 02 CHH CK 0022

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Shri Satish K. Agnihotri, J.—By this petition, the petitioner seeks a direction to the respondent authorities to allot 1/5th of the total area bearing khasra No. 491/2 Patwari Halka No. 2, area 0.20 acres situated at Ameri, Bilaspur, which was acquired by the Bilaspur Development Authority (for short "the BDA") by mutual agreement dated 20-9-1991 (Annexure - P/1), further grant a sum of Rs. 6,000/- per annum with interest at the rate of 18% per annum to indemnify the damages caused to the petitioner and also grant compensation as per the present market value.

2. The facts, in brief, are that the petitioner is the owner of land bearing khasra No. 491/2 Patwari Halka No. 2, area 0.20 acres situated at Ameri within the area of Municipal Corporation, Bilaspur (for short "the land in dispute"). On dissolution of the BDA, the respondent No. 3 has been vested with the assets and liabilities of the BDA.

3. Shri Verma, learned counsel appearing for the petitioner, would submit that pursuant to the mutual agreement dated 20-9-1991 (Annexure - P/1) the land in dispute, as aforesaid, was acquired by the, then, BDA. In clause 5 of the mutual agreement, it was provided that after development 1/5th portion of the land in dispute be re-allotted to the petitioner. Shri Verma would further submit that despite clear understanding between the parties to allot 1/5th i.e. 1742

sq.ft. of the total land i.e. 0.20 acres i.e. 8712 sq.ft., no action has been taken till date and, as such, the petitioner has suffered loss to the tune of Rs. 6,000/- per annum. The petitioner is also entitled to compensation for the same at the rate of Rs. 250/- sq.ft. The petitioner calculated the damages at the rate of Rs. 6,000/- per annum from 1991 till the date of filing of this petition to the tune of Rs. 72,000/- and after adding the interest it was calculated at Rs. 1,44,000/-.

4. On the other hand, Ms. Siddiqui, learned counsel appearing for the respondents No. 1 to 3, would submit that by communication dated 5-9-2003 (Annexure - P/5), after discussion with the respondent No. 3 and in reference to the letter dated 1-9-2003, a proposal was made by the petitioner to allot plot No. 13 admeasuring 3420 sq.ft. in 'Magadh Nagar Yojana' near 'Narmada Awas Yojana' and the petitioner was ready to pay the value of remaining portion of the land after deducting 1742 sq.ft., which he was entitled to pursuant to the acquisition of land in dispute, under the mutual agreement.

5. Ms. Siddiqui would further submit that the Estate Officer, Municipal Corporation, Bilaspur, accepting the proposal dated 5-9-2003 submitted by the petitioner, vide letter dated 24-2-2004 (Annexure - P/6) allotted plot No. 13 admeasuring 3420 sq.ft. in 'Magadh Nagar Yojana'. By the said letter, the petitioner was called upon to deposit a sum of Rs. 2,51,700/- at the rate of Rs. 150/- per sq.ft. for the remaining portion i.e. 1678 sq.ft. (3420 -1742). Thereafter, the petitioner has not taken any steps and, as such, the plot could not be allotted to him. If the petitioner is willing to deposit the amount as stated in the letter dated 24-2-2004, there is no difficulty in allotment of plot No. 13 admeasuring 3420 sq.ft. in 'Magadh Nagar Yojana', as proposed by the petitioner himself. Thus, the contention of the petitioner that the petitioner suffered damages on account of inaction on the part of the respondent authorities is unfounded and baseless.

6. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto.

7. It is indisputable that the land in dispute is owned by the petitioner and the same was acquired by the, then, BDA, by mutual agreement dated 20-9-1991. The petitioner vide communication dated 20-9-1991 (Annexure - P/2) represented the Chief Executive Officer, BDA, to allot 20% developed land in the form of plot in 'Narmada Awas Yojana'. Thereafter, on 15-10-2002 & 1-9-2003 (Annexures - P/3 & P/4, respectively) the petitioner sent reminders to the authorities for allotment of plot to the extent of 20% of the total land acquired under the mutual agreement. It is not clear either from the pleadings or from the arguments that when the plots were ready after development, as 20% of the developed area was to be allotted to the petitioner only after development of the scheme.

8. On 5-9-2003 (Annexure - P/5), the petitioner wrote a letter to the respondent No. 3 expressing his intention that the plot No. 13 admeasuring 3420 sq.ft. in

`Magadh Nagar Yojana" may be allotted to him. In the said letter, the petitioner also stated that he was willing to pay the market value of the remaining part of the area, which was accepted by the Estate Officer vide letter dated 24-2-2004 (Annexure - P/6) and a letter of allotment of the plot No. 13 admeasuring 3420 sq.ft. in `Magadh Nagar Yojana" was accordingly issued. Thereafter, no step has been taken by the petitioner to deposit the amount, which was a condition for allotment of bigger plot i.e. plot No. 13 admeasuring 3420 sq.ft. in `Magadh Nagar Yojana" in lieu of 1/5th to the total land acquired as per the mutual agreement.

9. The petitioner has not taken any steps except writing the abovestated letter. The petitioner himself had made a proposal for allotment of plot No. 13 admeasuring 3420 sq.ft. in `Magadh Nagar Yojana" on a condition that the value of the remaining part of the plot, which was more than 1/5th of the plot acquired under the mutual agreement would be paid to the respondent Corporation. When the plot No. 13 admeasuring 3420 sq.ft. in `Magadh Nagar Yojana" was allotted to the petitioner by letter dated 24- 2-2004, the petitioner has not taken any action by depositing the amount of Rs. 2,51,700/- i.e. at the rate of Rs. 150/- per sq. ft. for the remaining land i.e. 1678 sq.ft. Thus, allotment could not be made effective.

10. In view of foregoing, the petitioner is not entitled to any relief, as the petitioner has not performed the obligation on his part, which arose on account of proposal dated 5-9-2003 (Annexure - P/5) made by the petitioner and the allotment letter dated 24-2-2004 (Annexure - P/6). The question of grant of damages and compensation does not arise, as the petitioner himself has not taken any steps for a longer period.

11. As an upshot, the writ petition, being bereft of merit, is liable to be and is hereby dismissed.

12. There shall be no order as to costs.