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**(2015) 11 RAJ CK 0044**

**In the Rajasthan High Court**

**Case No :** SB Civil Misc Application (Writ) No. 130/2015 in SB Civil Writ Petition No. 2740/2006, SB Civil Misc Application No. 113/2014 in SB Civil Writ Petition No. 13521/2012, SB Civil Misc Application No. 114/2014 in SB Civil Writ Petition No. 13522/2012 and SB

Sugan Singh and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

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**Date of Decision :** 18-11-2015

**Acts Referred:**

**Citation :** (2015) 11 RAJ CK 0044

**Hon'ble Judges :** M.N. Bhandari, J.

**Bench :** Single Bench

**Advocate :** Sarthak Rastogi, Madhav Mitra, Manoj Bhardwaj, N.K. Singhal, Ajay Gupta, Anand Sharma, Saurabh Purohit, Mahipal Kharra and Yash Sharma, for the Respondent

**Final Decision :** Dismissed

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**Judgement**

M.N. Bhandari, J.—These misc. applications have been filed for clarification/modification of the judgment delivered by this court on 5.7.2013 in bunch of writ petitions led by CW 2740/2006, Sugan Singh & ors versus State of Rajasthan & anr.

2. Misc. Application No. 130/2015 has been filed by the Jaipur Development Authority (for short "the JDA") for clarification/modification of direction No. 1 of the judgment supra. The other applications have been filed by few petitioners thus all the applications have been heard together and are decided by this common order.

3. Learned counsel for the JDA submits that direction No. 1 of the judgment (supra) should apply to those applicants who remained successful in draw of lottery and deposited amount pursuant to the demand for allotment of a plot in Prithvi Raj Nagar Scheme (for short "PRN") excluding those who had withdrawn their amount subsequently or issued possession letter in other scheme/s. The

words "lease deed" in para (1) of the direction may thus be substituted by the words "possession letter". It is looking to the fact that after registration of the application for allotment of plot in PRN, lottery was drawn followed by a letter mentioning plot number of PRN in favour of few applicants. The demand letter was also issued followed by deposition of the amount. The direction No. 1 of the judgment applies only to the said category. It is excluding those who had withdrawn the amount after depositing it in pursuance to the demand for PRN or to those who were subsequently opted for Kalpana Nagar followed by possession letter with a request to take lease deed within a period of thirty days from the date of issuance of the letter. Those who did not apply for lease deed, was due to their default and cannot take benefit of it thus the words "lease deed" may be substituted by the words "possession letter" in para (1) of the direction in the judgment (*supra*) to have clarity.

4. It is also stated that the JDA, by taking wrong interpretation of the directions given in the judgment (*supra*), issued lease deed in favour of 62 applicants who are not falling under para No. 1 of the directions. Those 62 applicants were given allotment letter for Kalpana Nagar and not of PRN, hence the JDA is intending to cancel their allotment letters/lease deeds in PRN by maintaining it for Kalpana Nagar. The four other similarly placed applicants have not been issued possession letter/lease deed in PRN. The clarification sought aforesaid would make the things clear thus, application may be allowed.

5. Per contra, petitioners-applicants have prayed for clarification of the direction No. 1 of the judgment (*supra*) to include all those who opted for Kalpana Nagar, Jagatpura and in pursuance of the demand, deposited the amount but lease deed was not issued to them. It is more so when the JDA has already issued lease deed in favour of 62 such applicants. The JDA cannot make discrimination in their action. The applicants/petitioners are similarly placed thus it may be clarified that direction No. 1 of the judgment (*supra*) applies to those also who were given demand letter even for Kalpana Nagar, Jagatpura and deposited the amount but the lease deed was not issued in their favour. On a clarification of the aforesaid, discrimination presently existing would come to an end.

6. Learned counsel appearing for the petitioners/non-applicants have opposed misc. application filed by the JDA. It is submitted that after the misc. application, the JDA was asked to file an additional affidavit to find out whether allotment of plots have been made in PRN to those who were given plots in Kalpana Nagar. The additional affidavit shows allotment of plot to such applicants. In the light of the discrimination caused by the JDA, not only misc. application filed by them deserves to be dismissed but the direction may be given to allot plots/lease deed in favour of similarly placed applicants who were given demand letters followed by deposition of amount for Kalpana Nagar, Jagatpura because lease deed in their favour was not issued.

7. Learned counsel for the parties made reference of various paras of the judgment to clarify that the whole issue was discussed not only for allotment of

plots in PRN but in Kalpana Nagar, Jagatpura. It is looking to the fact that even for Kalpana Nagar, Jagatpura, allotment could not be made and the JDA unanimously made allotment in Kalpana Nagar, Kanota. It was without prior notice and consent of the applicants.

8. I have considered rival submissions of the parties and perused the record.

9. A bunch of writ petitions was filed for allotment of plot in the scheme evolved by JDA in PRN. The applications were invited followed by its registration. In few cases, letters were issued indicating the plot number of PRN to be allotted to the applicants. The demand letters for deposition of amount were also issued followed by deposition of the amount. Those applicants were not given allotment in PRN thereafter. There are other cases where, after registration, letters indicating plots were given followed by demand but the amount was not deposited or letters indicating to the plots were not issued etc. The allotment of plot by issuing lease deed in PRN was not made due to litigation on acquisition of land. The JDA thus evolved other scheme namely Kalpana Nagar in Jagatpura for applicants of PRN followed by options by few applicants. The few applicants petitioners opted for Kalpana Nagar, Jagatpura and demand was also satisfied by deposition of the amount. The allotment of plot was not made in Kalpana Nagar, Jagatpura but was made in Kalpana Nagar, Kanota.

10. The applicants herein are those who opted for Kalpana Nagar, Jagatpura and deposited amount pursuant to the demand. They are claiming allotment of plot in PRN as the JDA has allotted plots and issued lease deed in favour of 62, similarly placed applicants.

11. The facts given above show that the direction No. 1 of the judgment supra has been given interpretation in the manner it was suitable to the parties. The JDA has issued allotment letters in favour of 62 applicants who were not given demand letters with its satisfaction for PRN but was for Kalpana Nagar, Jagatpura. The JDA intend to cancel those lease deeds but, till date, no such action has been taken by them.

12. In view of above, the application filed by the petitioners-applicants and the arguments by those who are opposing the misc application filed by the JDA needs consideration. The interpretation taken by the JDA, has not been applied on the similarly situated applicants. In case of confusion, the JDA should have approached this court prior to taking action as has been given in last para of the judgment supra, which reads as under-

"In case of any difficulty in carrying out the directions aforesaid or otherwise, affected parties would be at liberty to make appropriate application before this court for clarification/modification."

13. It cannot be that similarly placed persons can be discriminated by the JDA. The JDA has allotted 66 plots to the applicants followed by lease deed in favour of 62 persons before approaching this court or during pendency of the misc

application filed by them. It could have been cancelled the lease by taking correct interpretation of direction No. 1 of the judgment (supra), which, in fact, was meant for those who got registration for allotment of plots followed by the letters indicating plot numbers in PRN and thereupon demand letters for payment and its satisfaction. The entire order pertains to PRN though facts concerned to the subsequent act of the JDA seeking option for Kalpana Nagar, Jagatpura and thereupon allotment in Kalpana Nagar, Kanota have been made to make the things straight but final direction in para (1) of the judgment (supra) is only for those who were the allottee in PRN.

14. In view of the discussion made above, I do not find that any clarification/modification is required, rather, directions in the judgment (supra) are clear. If a direction at para No. 1 is read along with the judgment, it needs no classification or modification, still observation has been made in this order. If the JDA has taken wrong interpretation of the directions, it is their fault and application for clarification/modification for substituting the words "lease deed" by that of "possession letter" cannot be granted. In the same manner, clarification sought by other applicants is unwarranted, as explained above.

15. In the result, all the misc. applications are dismissed, however, it is with a direction that the JDA should not make discrimination between similarly situated persons. The direction given by this court does not allow to make discrimination by the JDA thus it is made clear that the judgment (supra) be implemented without discrimination between similarly situated persons. It is, however, clarified that if any one is covered by the direction No. 1 of the judgment (supra), action in their favour would be taken without discrimination.