
(1994) 02 DEL CK 0004

In the Delhi High Court

Case No : Civil Writ Petition No. 322 of 1982

Sunehri Lal

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-02-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1994) 1 AD 913 : (1994) 53 DLT 770 : (1994) 29 DRJ 17 : (1994) 108 PLR 20

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : Mahesh Srivastava and O.P. Bhatia, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The present writ petition has been filed by the petitioner to impugn the order dated September 19, 1981, passed by the Joint Secretary, Land and Building, which is annexure A to the petition.

(2) The petitioner was owner of a plot of land. which was situated at Karkardooma. This land of the petitioner was acquired by notification issued u/s 4 of the Land Acquisition Act. 1894 on November 13, 1959. The land was finally acquired vide Award No. 54A of 1970-71 given by the Land Acquisition Collector in 1971. The petitioner was left with no other land after this acquisition and he applied that he should be given a plot of land for residential purposes, as his land was acquired by the Government. He made an application dated March 20. 1975. to the Delhi Administration, Delhi, and received a reply dated September 29, 1975.to the effect that the case of the petitioner for an alternative plot can be processed further only when the compensation is offered/paid to him by the Land Acquisition Collector/District Magistrate. Delhi. The petitioner was requested to intimate when the same was done to enable the Department to process his case for allotment. The petitioner received a copy of the letter dated May 1, 1978, which was addressed to the Land Sales Officer, Delhi Development Authority,

Vikas Minar, New Delhi, by the Under Secretary, Land & Building Department, Delhi Administration, Delhi, wherein a request was made to allot the land measuring 125 sq. yds. to the petitioner Sunehri Lal. The petitioner thereafter received another letter on February 26, 1979, and he was intimated that he was found eligible for allotment of an alternative developed land on perpetual lease basis in the Delhi Development Authority's East Zone Residential Scheme measuring 104 sq. metres approximately. He was further intimated that's that plot was not available he was being offered another plot in lieu of the same and the premium was fixed at Rs.9,418.00 i.e. Rs. 73.00 per sq. meters. This offer was made to the petitioner for and on behalf of Deputy Director (R), Delhi Development Authority, Annexure "D" to the writ petition. The offer was accepted by the petitioner on March 19, 1979, and he submitted a Bank Draft for Rs. 2,355.00 as well as the requisite affidavit. The petitioner thereafter was intimated by letter dated April 20, 1979, that the draw of specific plot number will be held on April 25, 1979; at 3 P.M. in the room of Executive Officer(R) on the First floor at Vikas Minar. The Land and Sales Officer, Delhi Development Authority, addressed another communication on June 5, 1979 to the petitioner asking him to deposit within one month from the date of issue of the letter a sum of Rs.6,780.20 and his details are referred to in paragraph 2 of the above said letter, which reads as follows:- "You are now requested to deposit within one month from the date of issue of this letter a sum of Rs.6780.20 (Rupees Six thousand seven hundred eighty and paise twenty only) as per detailed below by demand draft in favor of the Delhi Development Authority.

1.Total premium of plot No.30 Block No.B measuring 122.46 sq. meters (104 sq. Mtrs (a) Rs.73.00 & 18.46 s .Mtrs Rs.9124.20 2.Cost of preparation of lease-deed Rs. 11.00 3.Lease amount already paid vide Bank Draft No.3540/3/79 dated 19.3.79 subject to encashment Rs. 2355.00 4.Balance amount to be paid now net.(Rupees six thousand seven hundred eighty & paise twenty only) Rs. 6780.20"

(3) The petitioner wrote a letter dated July 3, 1979 requesting some more further time to deposit the balance amount and such request was accepted by the respondents and ultimately the possession of plot No.30.Block B. Measuring 122.47 sq. metres, Jhilmil Tahirpur Residential Scheme Phase II was given to the petitioner and possession was also handed over. This is evident from the letter dated September 14, 1979 (annexure H), which was addressed to the petitioner by the Deputy Director, Delhi Development Authority. The lease-deed in respect of the plot was executed along with the site plan in favor of the petitioner on July 13, 1980. Copy of the lease-deed forms part of the record of this case (annexure "K"). The petitioner, accordingly, has paid full consideration for the allotment in his favor. The possession was handed over to him and the lease-deed has also been executed. He reiterated that the plot in question is in his physical possession and he is the lawful occupant. The respondents on September 19, 1981, withdrew the confirmation of the recommendation made by the respondents for an alternative allotment in favor of the petitioner on the ground

that he had purchased the notified land.

(4) The learned counsel for the petitioner has impugned this action of the respondents as arbitrary and illegal. He has contended that the petitioner is a bonafide purchaser of the plot in question and he has already been handed over possession of the same and the lease-deed is duly executed and he. Therefore, cannot be deprived of the plot. The counsel has further argued that the matter is squarely covered by the judgment of this Court in UdayRaj v. Union of India and others Civil Writ Petition Nos-591 & 612 of 1982 decided on April 22, 1983. whereon similar facts the Division Bench of this Court has allowed the writ petition and quashed the impugned orders. The judgment cited p73 above has been upheld by the Hon"ble Supreme Court in Civil Appeals Nos.636&637 of 1985, which followed the judgment of the Court in Delhi Administration v. Bhola Dutt Sharma Civil Appeal No.4157 of 1985 decided on September 5, 1991, the operative portion of which reads as follows:

"WE agree with the view that under the scheme it was the owner of the land when it was acquired who was entitled to be considered for allotment of land as set out in the relevant decision of the Government of India. On the facts and circumstances in the present case, it was the respondent who was the owner of the land at the time when (he acquisition was completed and hence, he was entitled to be considered for allotment as per the policy embodied in the said scheme reflected in the decision of the Government of India. In our view, there is no substance in the appeal and it is dismissed with costs."

(5) The learned counsel appearing for respondent no.2. Dda, accepts this position of law and does not oppose the petition. The writ petition is. accordingly, allowed and the impugned order dated September 19, 1981, is quashed. The Rule is made absolute.

(6) No order as to costs.