



Sr.No. 16

2022:JKLHC-JMU:6380

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No. 844/2011
IA No. 1165/2011

Harish Gulati

....Petitioner(s)

Through:- Mr. Mohit Vaid, Advocate

V/s

JDA and others

....Respondent(s)

Through :- Mr. Adarsh Sharma, Advocate

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

14.12.2022

Heard learned counsel for the parties.

This writ petition is by the petitioner through his attorney holder by reference of Irrevocable General Power of Attorney dated 06.06.2011. A bare perusal of the attorney on record would show that the recital made therein are diametrically opposite to the factual situation which is being set up in the present writ petition that from the Irrevocable General Power of Attorney. The petitioner as being the principle never shared any factual detail with respect to the manner in which the petitioner came to apply for allotment of the alleged plot no. 329 (30/60) in Sector 1 (A) of Trikuta Nagar, Jammu, the price at which the petitioner had put-forth his claim for seeking allotment, the advance amount paid by the petitioner to the Jammu Development Authority, i.e, respondent no. 1, the loss of relevant papers concerning the allotment of plot in reference and the possession status of the plot in reference. In fact, a tone and tenure of the general power of attorney is, as if the petitioner is well possessed of the ownership and



possession of the plot in reference and he was constituting attorney holder to look after the said plot in that state of affairs, whereas the filing of the present writ petition by the petitioner through his attorney holder reflects an opposite situation, inasmuch as, the petitioner has no allotment order of the plot in reference in his favour. It is not pleaded in the writ petition as to for how much total consideration the allotment of the plot in reference was meant to take place in his favour as against the alleged payment of an amount of Rs. 3,225/- for which a purported receipt no. 4983 of 09.02.1979 has been annexed with the petition, which bears the mention of the cost of plot to Rs. 12,900/-. After the aforesaid purported deposit of an amount of Rs. 3,225/- in the year 1979, it was only on 07.07.1983 that the petitioner felt himself reminded of the fact that he was to make the payment of the reminder amount of the alleged sale consideration amount of Rs. 12,900/- so as to claim the possession of the plot from the Jammu Development Authority. After 1983, it was only on 16.12.2010 that the petitioner came forward with an application to the respondent no. 1 repeating the same words as used in application dated 07.07.1983 confirming the fact that neither the possession of the plot no. 329 Sector no. 1-A Trikuta Nagar Colony was with him nor any further payment apart from payment of Rs. 3,225/- was ever volunteered by the petitioner in favour of the respondent no. 1. For this alleged cause of action, the petitioner filed this writ petition through his attorney holder related to issuance of an Advertisement by the respondent no. 1, whereby residential plot in Trikuta Nagar, Jammu came to be put to auction and one of the said plot purposed for auction/plot no. 329, Sector no. I-A with the minimum bidden price of Rs. 26.67 lacs. It is against this very auction notice that the petitioner has come forward for seeking quashment of the same, as if the petitioner has entitled qua the plot no. 329 Sector 1-A Trikuta Nagar Colony, Jammu. Thus, the sole basis upon which the petitioner's takes his claim to resist



the action of the respondent no. 1 in putting the plot in reference to auction 2021 JKLHC-JMU:6380 the petitioner has deposited Rs. 3,225/- in the year 1975. The tone and tenure of the writ petition is as if the petitioner was issued an allotment order qua the plot in reference by the respondent no. 1 but the same was got misplaced by the petitioner so as to not to be found again by him but in the year 1983 when the petitioner had addressed his communication dated 07.07.1983 there was no such reference to any allotment order/letter by the respondent no. 1 in favour of the petitioner and so what the case when the petitioner addressed his letter dated 16.12.2010 to the respondent no. 1 except for the fact that in this communication dated 16.12.2010, the petitioner attributed the loss of allotment papers of the plot in reference to a fire incident in the private office of the petitioner without any date of the incident mentioned therein. Thus, making it obvious that the petitioner was at work to create a theory to co-relate his claim qua the plot in reference by default or desire mode and this was with the intend to cover up the legal lacuna attending the claim of the petitioner that actually at no point of time the petitioner had enjoyed any formal allotment of the plot in reference from the respondent no.1's end and for seeking which the petitioner at no point of time ever concerned to approach this Court for appropriate writ direction/order unto the respondent no. 1 to issue or re-issue allotment order in favour of the petitioner qua the plot in reference.

Thus, without any formal allotment of the plot in reference in his favour, the petitioner has come forward with this writ petition poses, as if he is the allottee of the plot in reference and the action on the part of the respondent no. 1 in putting up the plot in reference to auction in the year 2011 was violative of his legal right vested qua the said plot in reference. The possession is contrary to this, even if the petitioner had made any such alleged payment of an amount of Rs. 3,225/- at any point of time with the respondent no. 1 for the plot in



reference than the petitioner ought to have resilient enough to carry forward 2022, KLHC-JMU:6380
part of legal obligation in making the full and final payment of the alleged sale
consideration of amount of Rs. 12,900/- in favour of the respondent no. 1 as
nothing stop from petitioner from resorting to said course of action. But still the
petitioner feel satisfied with the advancement of an amount of Rs. 3,225/- to use
it as a matter of right to agitate his claim in the writ petition filed in the year
2011 to check made the action on the part of the respondent no. 1 in putting the
plot in auction.

Neither equity nor law in the present case favour the case of the
petitioner, as such, the present petition is found to be without any factual and
legal basis against the respondents, as such, dismissed.

Jammu:
14.12.2022
Meenakshi



(Rahul Bharti)
Judge