

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).20246/2010

(From the judgement and order dated 13/04/2010 in
of The COURT OF DELHI AT N. DELHI)

LPA No. 251/2010

SURINDER KHANNA

Petitioner(s)

VERSUS

DDA

Respondent(s)

(With appln(s) for permission to place addl. documents on record)

Date: 02/08/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. Sudhir Kumar Gupta, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

The petitioner was allotted a category III flat in Sector-B, Pocket I, Vasant Kunj in January, 1984 at an estimated cost of Rs.2.48 lakhs. As per the terms and

conditions of the allotment, the petitioner was required to deposit the cost in installments. He deposited the first and second installment on time but there was delay of more than three years and four months in the deposit of third and fourth installment. Therefore, the allotment made in his favour was cancelled vide order dated 2.8.1989. The representation made by

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him for restoration of allotment was rejected by the competent authority on 25.11.2003.

The petitioner challenged the cancellation of allotment in Writ Petition No.8315 of 2005 but withdrew the same on 29.4.2009 without seeking leave of the Court to file fresh writ petition. After some time, he filed Writ Petition No.894 of 2010, which was dismissed by the learned Single Judge on the

ground that the petitioner had committed default in payment of third and fourth installment and there is no valid reason for compelling the respondent to restore the allotment. The Division Bench of the High Court dismissed the letters patent appeal preferred by the petitioner and confirmed the order passed by the learned Single Judge.

Learned counsel for the petitioner relied on the office notings recorded in the file of respondent, xerox copy of which was supplied to him on an application filed under the Right to Information Act and submitted that the High Court committed an error by refusing to entertain the petitioner's prayer for restoration of the allotment ignoring that various functionaries of the respondent had favourably recommended his case.

In our view, there is no merit in the submission of the learned counsel. The notings recorded in the file of the respondent cannot be treated as an order passed by the competent authority and the same cannot be made basis for granting relief to the petitioner. For taking this view, we

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may refer to the judgment of this Court in Bachhittar Singh v. State of Punjab AIR 1963 SC 395 and the latest judgment in Shanti Sports Club v. Union of India (2009) 15 SCC 705.

We are also of the view that the second writ petition filed by the petitioner should not have been entertained by the learned Single Judge and the same ought to have been dismissed by applying the ratio of the judgment of this Court in Sarguja Transport Service v. State Transport Appellate Tribunal (1987) 1 SCC 5 because the first writ petition was dismissed as withdrawn without liberty to file fresh petition on the same cause.

The special leave petition is accordingly dismissed.

(Satish K. Yadav)
Court Master

(Phoolan Wati Arora)
Court Master