

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1314 OF 2010
(Arising out of SLP (C) No.29744 of 2008)

Delhi Development Authority ... Appellant

Versus

Harbans Lal Gupta ... Respondent

O R D E R

Leave granted. Heard the parties.

2. The respondent registered himself for allotment of a Middle Income Group Flat under the Registration Scheme for New Pattern 1979, of Delhi Development Authority ('DDA' for short) by depositing Rs.4,500/- on 26.9.1979, vide Registration certificate issued on 20.6.1980. For more than one and half decades there was no information from DDA. By communication dated 21.10.1994, he informed the DDA about his retirement from service and change of address and sought information about the status of his application. This was followed by reminders sent in 1998 and 2005 apart from several visits in person. But there
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was no response or reply from DDA. He therefore, made a complaint in the grievance columns of an English Daily - the Hindustan Times. Only thereafter he was informed that an allotment had been made in his favour on 21.12.1992 and that as he had not responded thereto by making the deposits as required, the allotment stood cancelled automatically.

3. Thereafter, the respondent approached the Delhi High Court in the year 2006 seeking allotment of the plot alleging that he had not received the communication dated

21.12.1992. He disputed the claim of DDA that such a communication had been sent. The learned Single Judge allowed the writ petition with costs of Rs.10,000/- vide its order dated 13.12.2007 and directed the DDA to make the allotment by conducting a mini draw of lots within ten weeks and to issue the Demand-cum-Allotment letter within four weeks from the draw and deliver possession on payment at the rate prevailing as on 21.10.1994. The DDA filed an appeal and the Division Bench dismissed the appeal by its judgment dated 8.7.2008.

4. The said judgment is challenged in DDA in this appeal by special leave contending that it cannot be penalised by requiring it to make an allotment at the 1994 rates without any interest, and also made liable to pay costs, when they were not at fault. DDA has produced some extracts from its registers to show that it had dispatched the allotment letter on 22.12.1992. But there is nothing to show that the letter of allotment was served on the respondent. We also find that the DDA failed to respond to the several queries from the respondent - both in person and by letter - between 1994 and 2006.

5. In this factual background, interests of justice will be served by resorting to the Scheme of DDA which permits acceptance of requests for restoration of allotment in the event of non-service of letters of allotment due to change of address, subject to payment of

interest.

6. We accordingly allow this appeal in part, and in modification of the orders of the learned Single Judge and the Division Bench of the High Court, direct as follows :

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(a) DDA will make the allotment to the respondent by charging the price applicable on 22.12.1992 (date of allotment) that is Rs.4,67,300/- less deposit of Rs.4,500/- with interest at the rate of 12% per annum from 21.12.1992 to the date of payment.

(b) The respondent shall deposit the said amount within three months from today.

(c) DDA shall make the allotment keeping in view the request of respondent to allot a ground floor flat (subject to availability either in Rohini or Dwarka Schemes) having regard to the age and ailments of the respondent.

(d) The adverse remarks/comments against DDA and its officers and direction for payment of costs of Rs.10,000/-, are set aside.

.....J.
(R.V. RAVEENDRAN)

.....J.
(H.L. DATTU)

New Delhi;
February 02, 2010.

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ITEM NO.1 COURT NO.4 SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).29744/2008

(From the judgement and order dated 08/07/2008 in LPA No. 201/2008 of The HIGH COURT OF DELHI AT N. DELHI)

DELHI DEVELOPMENT AUTHORITY

Petitioner(s)

VERSUS

HARBANS LAL GUPTA

Respondent(s)

(With prayer for interim relief and office report)
(FOR FINAL DISPOSAL)

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

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. DATTU

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For Petitioner(s) Mr. Ashwani Kumar, Adv.

For Respondent(s) Mr. Ajay Mehrotra, Adv.
Mr. Arun Kumar Beriwal, Adv.

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

Leave granted.

The appeal is allowed in part, in terms of the signed order, and in modification of the orders of the learned Single Judge and the Division Bench of the High Court, direct as follows :

(a) DDA will make the allotment to the respondent by charging the price applicable on 22.12.1992 (date of allotment) that is Rs.4,67,300/- less deposit of Rs.4,500/- with interest at the rate of 12% per annum from 21.12.1992 to the date of payment.

(b) The respondent shall deposit the said amount within three months from today.

(c) DDA shall make the allotment keeping in view the request of respondent to allot a ground floor flat (subject to availability either in Rohini or D warka Schemes) having regard to the age and ailments of the respondent.

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(d) The adverse remarks/comments against DDA and its

officers and direction for payment of costs of
are set aside.

Rs.10,000/-,

(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master

(Signed order is placed on the file)