

(2012) 08 DEL CK 0022

Delhi High Court

Case No: Writ Petition (C) 7519 of 2011

Smt. Laxmi Devi

APPELLANT

Vs

Govt. of NCT of Delhi
and Another

RESPONDENT

Date of Decision: Aug. 23, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226
- Right to Information Act, 2005 - Section 4

Hon'ble Judges: G.S. Sistani, J

Bench: Single Bench

Advocate: Anand Yadav, for the Appellant; Baankey Bihari, for DDA. and Mr. Sanjay Kumar Pathak, for GNCTD, for the Respondent

Final Decision: Allowed

Judgement

G.S. Sistani, J

1. Present petition has been filed by petitioner under Article 226 of the Constitution of India seeking a writ, order or direction directing respondents to allot a plot measuring 250 sq. yards to the petitioner in Dwarka. Rule. With the consent of counsel for the parties writ petition is set down for final hearing and disposal.

2. As per the petition, petitioner was the owner of a piece of land total measuring 37 bighas and 16 biswas situated in the revenue estate of Village Dhool Siras, Delhi. The petitioner has 1/2 share in the said land. The land of the petitioner was acquired by the Land Acquisition Collector vide an Award dated 24.10.2002. Petitioner was awarded compensation from the Land Acquisition Collector on 15.11.2002. In the year 2003 petitioner vide application No. 3496 applied for an alternate plot in view of her land having been acquired.

3. Grievance of the petitioner is that although persons junior and similarly situated to the petitioner have been allotted plots but DDA has declined the request of the petitioner for the reason that as per the recommendation issued by Land and Building Department the name of the petitioner was mentioned as Smt. Laxmi Devi, wife of Sh. Randhir Singh, whereas in the recommendation of the Committee/Minutes the name of the applicant has been mentioned as Smt. Laxmi Devi, daughter of Smt. Rajjo.

4. Mr. Yadav, Learned Counsel for the petitioner, submits that the stand of the DDA is highly unreasonable in view of the fact that large number of documents were submitted and are available with DDA to show that the Smt. Laxmi Devi, wife of Sh. Randhir Singh, is also the daughter of Smt. Rajjo. Mr. Yadav further submits that the DDA has failed to allot the plot in favour of the petitioner only with a view to harass the petitioner and for the reasons best known to them. Counsel also submits that there is no element of doubt with regard to the identity of the petitioner. It is also contended that the DDA should be directed to allot a plot in favour of the petitioner at the same rate at which a plot was allotted to a person junior to the petitioner in the year 2010. Counsel next contends that delay in allotting the plot in favour of the petitioner has resulted into grave financial hardship and harassment to the petitioner. Counsel further contends that the cost of construction has considerably increased in the last one and a half years.

5. Elaborating his arguments further Mr. Yadav, Learned Counsel for the petitioner, submits that the petitioner has already submitted with the DDA certificate dated 10.9.2003 evidencing her name as Laxmi Devi, daughter of Smt. Rajjo, a copy of which has been filed at page 27 of the paper book; the application form for allotment of alternate plot wherein the petitioner has given the correct particulars as Laxmi Devi, daughter of Smt. Rajju, copy of which has been placed filed at page 32 of the paper book; the acknowledgement receipt of the application form by Land and Building Department duly accepting the application form of the petitioner wherein the name of the petitioner has been mentioned as Smt. Laxmi Devi, daughter of Smt. Rajju, a copy of which has been filed at page 34 of the paper book; copy of khatoni paimish, a copy of which has been filed at page 37 of the paper book, which shows the name of the petitioner as Laxmi Devi daughter of Smt. Rajo a copy of ration card of the petitioner, which shows the name of her husband to be correct; and copy of the election card of the petitioner.

6. The land and Building Department has handed over in Court today a status report as per which it has been stated that the recommendation made in favour of the petitioner has not been withdrawn. In the status report it is further stated that perusal of the documents reveal that the name of the mother of the petitioner, Smt. Laxmi Devi, has been mis-spelt in the documents submitted by the applicant, Smt. Laxmi Devi, which may be considered as an inadvertent typographical error, however, the person is one and the same. It is also stated that regarding

mis-spelling the name of the mother of Smt. Laxmi Devi, the petitioner may be asked to submit an affidavit in this regard to the DDA so that the matter may be disposed of accordingly.

7. I have heard Learned Counsel for the parties and also considered their rival submissions. I have also perused the documents filed on record as also copy of the status report, which has been handed over by counsel for the Land and Building Department in Court. The basic facts are not in dispute that the land of the petitioner was acquired by Land Acquisition Collector vide award dated 24.10.2002. The petitioner was paid compensation on 15.11.2012. The petitioner applied for allotment of plot in lieu of acquired land. Respondent No. 1 sanctioned a plot measuring 250 sq. yds. vide letter dated 10.8.2006 in favour of the petitioner. Although the plot was sanctioned in the name of the petitioner, the name of the petitioner was not included in the draw held by DDA. The persons junior to the petitioner have been allotted plots but DDA has declined the request of the petitioner for allotment of plot on the ground that as per the recommendation issued by Land and Building Department the name of the petitioner was mentioned as Smt. Laxmi Devi, wife of Sh. Randhir Singh, whereas in the recommendation of the Committee/Minutes the name of the applicant is mentioned as Smt. Laxmi Devi, daughter of Smt. Rajjo.

8. It may be noticed that Section 4 Notification was issued by the Government as far back as in the year 2000, the land of the petitioner was acquired in the year 2002 and compensation was received by the petitioner on 15.11.2002.

9. It is the case of the petitioner that she had completed all the formalities in the year 2006. Thereafter the petitioner has been running from pillar to post seeking allotment of an alternate plot. On 10.8.2006 Land and Building Department had sanctioned/recommended the case of the petitioner to the DDA. From 2006 to the date of filing of this writ petition at no point of time the DDA bothered to inform the petitioner as to why the name of the petitioner was not being considered by them. The name of the petitioner did not find mention in the draw conducted on 5.2.2012 and also in the mini draw held on 14.9.2010. Petitioner filed an application under the Right to Information Act. As complete details were not provided to the petitioner, the petitioner filed an appeal before the Appellate Authority on 21.8.2010 and it is only on 19.7.2010 the petitioner was informed about the reasons.

10. Grievance of the petitioner is absolutely justified. It is yet another case where the respondents have treated a common citizen of this country in a shoddy, careless and irresponsible manner. Having regard to the various documents placed on record there was little doubt that it was the petitioner whose land had been acquired, she had received compensation, she had made an application to the DDA for allotment of a plot and based on these documents the Land and Building Department had made a recommendation as far back as on 18.8.2006 in favour of the petitioner. This stand duly stands verified. The relevant portion of the status

report, which has been handed over in Court today, reads as under:

The perusal of the above documents revealed that the name of mother of Smt. Laxmi Devi has been mis-spelt in every third documents submitted by the applicant which may be considered as the typing error in advertence however, the person is only one. This department since has issued a recommendation letter dated 10/08/2006 and the same has not later been withdrawn hence it stands recommended on date. Regarding mis-spelling (sic.) of the name of the mother of Smt. Laxmi Devi, the petitioner may be asked to submit an affidavit in this regard to the DDA so that the matter may be disposed of accordingly.

11. The documents referred to in the status report were in the custody of both the Land and Building Department as also the DDA. It has taken respondent to almost more than five years to issue this clarification, which could have been done at the first opportunity available; the same would have avoided harassment to the petitioner, extra burden of filing RTI application, burden on the department to reply to the queries and above all judicial time of this Court has been wasted for something which could have easily been done by the respondents themselves. Respondents are not only responsible for harassing the petitioner but also adding to the burden on the legal system.

12. I find force in the submission of Learned Counsel for the petitioner that the plot should be allotted to the petitioner at the rate of 2010 when a person junior to the petitioner was allotted a plot as there are no justifiable reasons for the delay in allotting the plot in favour of the petitioner. Taking into consideration that the cost of construction has gone up tremendously for the past three years for which the petitioner cannot be made to suffer, the DDA shall charge cost of the year 2010 from the petitioner. Accordingly, present petition is allowed. The petitioner shall file an affidavit with the DDA as per the status report. The DDA shall allot the plot to the petitioner within a period of three months from today as per the Scheme. Accordingly, present petition stands disposed of with costs of Rs. 10,000/- to be paid to the petitioner by both the respondents.