

HIGH COURT OF JAMMU AND KASHMIR

AT JAMMU

CDLOW No.9/2013

c/w

LPAOW No.31/2013

CMA No.38/2013

Date of order: 24.03.2014

Jammu Development Authority

v.

Mirdula Sharma

Coram:

Hon'ble Mr. Justice M. M. Kumar, Chief Justice

Hon'ble Mr. Justice Muzaffar Hussain Attar, Judge

Appearing counsel:

For the appellant(s) : Mr. Adarsh Sharma, Advocate.

For the respondent(s) : Mr. Rajnish Raina, Advocate.

i/ Whether to be reported in : Yes
Press/Media

ii/ Whether to be reported in : Yes
Digest/Journal

M.M.Kumar,CJ

1. The instant appeal under Clause 12 of the Letters Patent is directed against judgment and order dated 04.05.2012 rendered by the learned Single Judge of this Court accepting the prayer made by the petitioner-respondent, holding that she was entitled to allotment of a plot on the basis of her successful selection disclosed to her vide communication No.JDA/RN/30`x60`/407 dated 18.10.2002. The view of the learned Single Judge is based on the admission made by the appellant-Jammu Development Authority, which is discernible from the following paras of the judgment:-

“The Jammu Development Authority does not dispute the petitioner's entitlement to the plot and all

that it says is that the Authority, after having discovered some irregularities committed by the then Vice Chairman of the Jammu Development Authority in making allotments was busy in scrutinizing and it was for this reason that follow up action for allotment of the plot to the petitioner could not be taken up. The Authority is now stated in a position to take further steps.

The Authority having admitted the petitioner's entitlement to allotment of the plot, a direction needs to be issued to it to discharge its obligation in issuing the Allotment Order and putting the petitioner in possession of the allotted plot after execution of requisite Lease Deed within a time frame.

This Petition, accordingly, succeeds and is, therefore, allowed. A direction shall issue to the Jammu Development Authority to allot a residential plot of land measuring 30`x60` at Roop Nagar, Housing Colony Jammu to the petitioner within a period of three months. After the allotment was made and the Lease Deed executed, the possession of the Plot shall be delivered to the petitioner within one month thereafter."

2. Mr. Adarsh Sharma, learned counsel for the appellant is at pains to explain to us that a large number of plots were allotted in illegal manner by Sh. Mohd. Aslam Qureshi, ex Vice Chairman, Jammu Development Authority during November 2001 to June, 2003 and in the 73rd meeting of the Board of Directors of Jammu Development Authority held on 26.04.2012 under the Chairmanship of Deputy Chief Minister-cum-Minister for Housing & Urban Development some decisions were taken. A committee was constituted under the chairmanship of Principal Secretary to govt., Housing and Urban Development Department to examine the reports and related facts.

3. Mr. Rajnish Raina, learned counsel for the writ petitioner-respondent has, however, submitted that persons like the petitioner-respondent have been deprived of allotment of plots despite their legal entitlement whereas a number of unlawful allottees are enjoying possession by building houses or enjoying the sale proceeds by selling the plots(s). According to the learned counsel, no action against those allottees has been taken and in fact their possession has been protected by the Jammu Development Authority.

4. Having heard learned counsel for the parties at a considerable length and perusing the paper-book with their able assistance, we are of the view that the instant appeal is wholly ill advised. A perusal of the extracted paras of the impugned judgment would show that before the learned Writ Court it was admitted in unmistakable terms that the writ petitioner-respondent was entitled to allotment of a residential plot measuring 30' x 60' at Roop Nagar Housing Colony, Jammu as was conveyed to her vide communication No.JDA/RN/30'x60'/407 dated 18.10.2002. The petitioner-respondent has also made payment in terms of communication dated 18.10.2002 and completed all the formalities stipulated in the aforesaid communication. Once the entitlement of the petitioner-respondent for allotment of a

residential plot has been admitted then the question of irregular allotment or illegal allotments made to other would pale into insignificance. The order of the Writ Court is categorical with regard to the admission made by the Jammu Development Authority. The aforesaid admission has again been reiterated and remains undisputed before us. In fact the appeal would not be maintainable. Therefore, we find that the instant appeal is ill advised and is devoid of any merit, as such, same is liable to be dismissed.

5. As a sequel to the above discussion, this appeal fails and same is dismissed along with application seeking condonation of delay with costs of Rs.10,000/- (Rupees ten thousand), which shall be paid in the form of a Demand Draft to the petitioner-respondent. The needful shall be done within two months from the date of receipt of a copy of this order.

(Muzaffar Hussain Attar)
Judge

(M. M. Kumar)
Chief Justice

Jammu,
24.03.2014
Vinod.