



\$~55

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 17th February, 2025**

+ **LPA 116/2025, CM APPL.Nos.9569/2025, 9570/2025, 9571/2025 & 9572/2025**

SHYAM SUNDER SETHIAppellant
Through: Mrs. Vikas Jain and Mr. Nikhil
Fernandes, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ANR.Respondents
Through: Mr. Anish Dhingra, Mr. Nakul Ahuja
and Ms. Pooja Agarwal, Advocates
for DDA.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)

CM APPL.Nos.9571/2025 & 9572/2025

1. Exemption allowed, subject to all just exceptions.
2. The applications stand disposed of.

CM APPL.9569/2025

3. Cause shown is sufficient. Accordingly, the application is allowed.
Delay of 120 days in filing the instant Letters Patent Appeal is condoned.
4. The application stands disposed of.



LPA 116/2025, CM APPL.9570/2025

5. Heard learned counsel representing the parties.
6. By instituting the proceedings of this intra-court appeal, the appellant/petitioner challenges an order dated 09.09.2024 passed in W.P.(C) No.10299/2023 and order dated 08.01.2025 passed in review petition bearing no.408/2024, whereby the learned Single Judge dismissed both the petitions filed by the appellant/petitioner.
7. The claim put forth by the appellant/petitioner in the writ petition before learned Single Judge was in relation to an order dated 19.05.2023 passed by the Competent Authority of the respondent/Delhi Development Authority (hereinafter referred to as 'DDA') rejecting the representation made by the appellant/petitioner in compliance of an order passed by this Court on 27.05.2022, while disposing of the earlier writ petition, namely, W.P.(C) No.8489/2022 filed by the appellant/petitioner.
8. It has been argued by learned counsel representing the appellant that the learned Single Judge has erred in law in not appreciating the facts of the case, especially the fact that the order dated 17.09.1991 whereby the request for cancellation of the registration with refund of the appellant/petitioner was accepted, was never served upon him. Learned counsel representing the appellant has also argued that the very fact that the initial registration amount deposited by the appellant/petitioner was not refunded itself made it clear that appellant/petitioner's registration was never cancelled and it is in these facts that the appellant/petitioner was included in the draw of lots conducted on 12.06.2012. It has also been argued by learned counsel representing the appellant/petitioner that pursuant to the said draw of lots



conducted on 12.06.2012, a plot bearing No.1095, situated in Block C4, Sector 34, Rohini, New Delhi ought to be allotted to the appellant/petitioner.

9. On the other hand, Mr. Anish Dhingra, learned counsel representing the DDA has supported the judgment rendered by the learned Single Judge which is under challenge herein and has submitted that in absence of any proof that the appellant/petitioner ever made the application dated 14.01.2004 requesting them for withdrawal of the earlier letter dated 24.06.1991, and also taking into account the fact that the request made by the appellant/petitioner *vide* his letter dated 24.06.1991 was acceded to by the DDA by means of the order dated 17.09.1991, the claim of the appellant/petitioner is not tenable.

10. Having considered the respective submissions made by learned counsel representing the parties and perused the records available before us on this instant appeal, we find ourselves unable to agree with the submissions made by learned counsel representing the appellant/petitioner.

11. The appellant/petitioner got himself registered with the DDA in the year 1981. After waiting for 10 years, once no allotment to the appellant/petitioner was made, he is said to have made an application on 24.06.1991 with the prayer that the registration of the appellant/petitioner be cancelled. The said prayer made by the appellant/petitioner *vide* letter dated 24.06.1991 is said to have been accepted by the DDA by passing an order dated 17.09.1991. It is the case of the DDA that the order dated 17.09.1991 was communicated to the appellant/petitioner, however, the said fact is being denied. Thereafter, the appellant/petitioner is said to have made another application on 14.01.2004, seeking withdrawal of the request made



by him by means of the earlier letter 24.06.1991. The DDA has categorically denied having received any such request said to have been made by the appellant/petitioner *vide* letter dated 14.01.2004.

12. In the aforesaid facts, the question which arises for our consideration is as to whether any right could be said to have accrued on the appellant/petitioner of a continued registration with the DDA. Admittedly, since 1991 till 2004, the appellant/petitioner kept silent and did not make any inquires about the application said to have been made earlier i.e., on 24.06.1991.

13. We may also note that in compliance of an order passed by this Court on 27.05.2022, by which the writ petition filed by the appellant/petitioner earlier, namely, W.P.(C) No.8489/2022, the DDA has given adequate reasons in the order dated 19.05.2023, as to why the request of the appellant/petitioner cannot be acceded to.

14. It has been stated in the said order dated 19.05.2023 passed by the DDA pursuant to the order of the Court dated 27.05.2022 that on the application made by the appellant/petitioner dated 24.06.1991, the request made therein was accepted by means of the order dated 17.09.1991, which was communicated to him, however, for certain reasons refund of the initial registration amount could not be made.

15. The order dated 19.05.2023 also mentions about the request made by the appellant/petitioner by means of the letter dated 10.10.2003 as well, and while rejecting the request for restoration of the registration, it has been stated that the appellant/petitioner could seek the refund of the registration



amount.

16. As to whether the order dated 17.09.1991, whereby the request of the appellant/petitioner for cancellation of the registration is said to have been accepted, was communicated to him or not is a pure question of fact which, in our considered opinion, could not be adjudicated in proceedings under Article 226 of the Constitution of India. Similarly, as to whether the letter dated 14.01.2004 was received by the DDA or not, is again a question of fact, determination of which is not permissible in the proceedings of the writ petition under Article 226 of the Constitution of India as it will require the parties to adduce evidence.

17. In any view of the matter, there is no explanation worth a name which comes forth from the appellant/petitioner as to why has he kept silent right from 1991 till the year 2004.

18. As to the submission made by learned counsel representing the appellant/petitioner that the fact of very inclusion of the name of the appellant/petitioner in the draw of lots held on 12.06.2012 is sufficient to presume that the registration of the appellant/petitioner was never cancelled, we may only observe that the DDA while passing the order dated 19.05.2023 has stated that if merely because of some inadvertent mistake the name of the appellant/petitioner stood included in the draw of lots, that will not confer any right on him.

19. We do not find any good reason to disagree with the reasoning given by the DDA in its order dated 19.05.2023.

20. In view of the aforesaid facts and the discussions, we are of the



2025:DHC:1035-DB



considered opinion that the order by learned Single Judge while dismissing the writ petition which is under challenge herein, need not be interfered with.

21. Resultantly, the instant Letters Patent Appeal fails which is hereby dismissed.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 17, 2025

mk