

Ashish Goyal vs State Of U.P. And 4 Others on 30 April, 2025

Author: Manoj Kumar Gupta

Bench: Manoj Kumar Gupta

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:70530-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

(SN.35)

Court No. - 21

Case :- WRIT - C No. - 41707 of 2024

Petitioner :- Ashish Goyal

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Ajeet Sharma, Divakar Rai Sharma

Counsel for Respondent :- Atul Mehra, C.S.C., Suresh C. Dwivedi

Hon'ble Manoj Kumar Gupta, J.

Hon'ble Anish Kumar Gupta, J.

1. Heard Shri Divakar Rai Sharma, learned counsel for the petitioner, Shri Rajeev Gupta, learned Addl. Chief Standing Counsel for the respondents no. 1 and 2 and Shri Atul Mehra, learned counsel for the respondents no. 3, 4 and 5.

2. The instant writ petition has been filed by the petitioner seeking quashing of the order dated 20.11.2024 passed by the respondent no. 5 whereby the allotment of Plot No. 2 under Nawalganj Stone Market Yojana, Agra made in favour the petitioner on 13.5.2022 has been cancelled for the reason that the said plot was previously allotted to R.Shree Chand and Company on 30.10.1976 and thus the possession/registry of the said plot cannot be executed in favour of the petitioner. By the said order the Development Authority has also refunded the allotment money deposited by the petitioner. It is further prayed that the respondents be directed to offer any alternative plot similar to the commercial plot allotted to the petitioner.

3. The brief facts of the case are that the respondent-authority invited E-auction bids for the commercial Plot No. 2 under Nawalganj Stone Market Yojana, Agra. The tenders were opened on 2.5.2025 and the petitioner being the highest bidder, the said plot has been allotted in favour of the petitioner. The cost of the plot allotted to the petitioner was Rs.70,24,501/- plus 12% free hold charge i.e. Rs.8,42,941/-. Thus the total cost of the plot was calculated at the rate of Rs.78,67,442/-. Against the requirement of deposit of earnest money of Rs.6,91,000/- the petitioner has deposited a sum of Rs.6,92,150/- and as per the demand raised through the allotment letter, the petitioner has deposited Rs.19,13,366/- on 21.5.2022, within the stipulated period. As per the allotment letter, upon deposit of 25% of the total value of the plot the authority was required to handover the possession of the said plot to the petitioner. Since the petitioner has deposited more than 25% of the total value of the plot by 21.5.2022, he asked for the possession of the plot from the respondents so that the same could be utilized and he also requested to the respondents authority to provide the site plan of the plot and inform the total value of the plot in lump sum so that he can deposit the entire balance amount in one time to get the lease deed executed in his favour. Instead of handing over the possession or providing the site plan as requested by the petitioner, the development authority issued a notice dated 12.12.2023 asking the petitioner to deposit a sum of Rs. 34,66,415/- before 15.12.2023. Despite repeated request of the petitioner he was neither provided the site plan nor possession of the plot in question has been handed over to him. The petitioner repeatedly wrote letters stating that he has not opted for the payment in installment rather he is interested in making the payment as one time payment after the possession of the said plot and get the lease deed executed in his favour. Vide impugned order dated 20.11.2024 the allotment has been cancelled by the authority realizing that the said plot was already allotted to one R.Shree Chand and Company in the year 1976, therefore, the petitioner could not be given the possession of the plot and the amount was refunded. Hence this writ petition.

4. On 16.12.2024, this Court passed the following order:

"1. The stand taken by the respondent Development Authority is that by inadvertence plot no.2 was put to auction and was allotted to the petitioner, although, it had been allotted in the past to one M/s. R. Shreechand and Company.

2. The written instructions provided by the Development Authority mentions that the previous allottee had deposited the entire allotment money but the sale deed could not be executed in its favour. However, it has not been clarified when the previous allottee had deposited the entire allotment money.

3. Let such aspect be clarified by filing affidavit of a responsible officer of ADA.

3. Put up as fresh on 10.01.2025."

5. Again on 17.2.2025 and 4.3.2025 time was granted to the Vice Chairman, Agra Development Authority to resolve the dispute, which read as under :

17.2.2025 "1. Sri Atul Mehra, learned counsel for the respondent-Development Authority states that the Vice-Chairman has initiated proceeding in respect of plot allotted in favour of M/s Sri Chand and Company. He submits that son of one of the partners appeared before the Vice-Chairman and the matter is fixed for tomorrow. He submits that the case may be taken up after two weeks so that in the meantime, the Vice-Chairman, Agra Development Authority takes a final decision.

2. Accordingly, adjourned to 4.3.2025 as a fresh case."

4.3.2025 "1. Sri Atul Mehra, learned counsel for the respondent-Development Authority, states that Manish Gupta, who is son of Devendra Kumar Gupta and grandson of Ramdhan Gupta, one of the partners of the firm in whose favour there was original allotment, appeared before the authority and gave his no objection. The authority came to know from him that there are four other sons of late Ramdhan Gupta and the authority is seeking information from Tehsildar Sadar in respect of them and has prayed for four weeks' time to obtain their response. He further states that there was one more partner in the firm, Shri Chand Gupta and Company, who has died intestate.

2. Having regard to the prayer made, the proceedings are adjourned for four weeks.

3. Put up as fresh on 08.04.2025."

6. On 8.4.2025, the following order was passed by this Court granting one more opportunity to the Agra Development Authority to resolve the dispute:

"1. It appears from the record that Agra Development Authority, Agra without cancelling the allotment of the original allottee namely M/s R. Shreechand and Company proceeded to advertise the plot, wherein, it came to be allotted in favour of the petitioner. The petitioner has deposited the entire allotment money but sale deed is not being executed for the reasons that all the heirs of the original allottee could not be contacted so far to ascertain whether they are still interested in obtaining sale deed/lease deed in their favour or not. It has come on record that one of the sons of the deceased allottee has already clarified his stand that he is not interested in obtaining the lease deed/sale deed.

2. The present situation is a result of callous approach of the Development Authority in advertising the plot without examining its records.

3. As prayed by Shri Atul Mehra, learned counsel appearing on behalf of the respondent, Development Authority, three weeks further time is granted to the Development Authority to resolve the issue to the satisfaction of the petitioner.

4. Put up as fresh on 30 April 2025."

7. Shri Atul Mehra, learned counsel for the respondent-Development Authority states that the Development Authority made hectic search for the grand-son of one of the partners of previous allottee i.e. R.Shree Chandra and Company but since it could not find the details and therefore, the Development Authority is not in a position to settle the plot with the petitioner. He further submits that the Development Authority in the said backdrop is also not in a position to resolve the issue.

8. Having regard to the aforesaid stand of respondent-Development Authority, we proceeded to hear the matter on merits.

9. It is the admitted case of the respondent-Development Authority that the plot in question which was put to auction by them was already allotted to one R.Shree Chand and Company way back in the year 1976. Despite the aforesaid fact which was well within the knowledge of the Development Authority they have advertised the said plot and put the same into auction whereby the petitioner being a bonafide person has participated in the auction proceedings and being the highest bidder he has been allotted the said plot and despite the deposit of requisite amount of 25% of the total value of the plot he has not been given the possession of the said plot despite repeated reminders and the allotment has finally been cancelled on the ground that it was previously allotted to some one else. This Court has seen very often the irresponsible behavior of the various Development Authorities in proceeding with the auction and allotment of plots which are either disputed or possession thereof is not with the Authority and therefore fail to deliver possession of the said plots which give rise to unnecessary litigation and also harassment to such bonafide purchasers without there being any fault on their part. This shows the callous and irresponsible approach of the Development Authorities.

10. In the instant case the petitioner has participated in the auction proceedings and being the highest bidder has succeeded in seeking the said commercial plot in his favour and deposited a substantial amount, which is more than 25% of the total value of the plot in question. As per the allotment letter the authority was under obligation to handover the possession of the said plot on receipt of the 25% of the total value of the plot. Despite that, instead of handing over the possession of the said plot, they continued to demand the balance amount but did not deliver the possession of the said plot to the petitioner nor they had ever informed to the petitioner about the previous allotment of the same plot for more than two and half years approximately and ultimately vide the impugned order dated 20.11.2024 they have cancelled the allotment on the ground that the same was already allotted to some one else in the year 1976 and after two and half years they have refunded the amount with interest at the rate of 3.5%, whereas as per the allotment letter had there

been any default on the part of the petitioner they would have charged interest at the rate of 13% per annum. The petitioner has repeatedly asked the Development Authority to give possession of the plot and take the entire balance amount in lump sum and execute the lease deed in his favour. The Development Authority since was not in a position to deliver the possession kept on dragging the petitioner and demanding the amount in installments which has not only caused the harassment but also financial loss to the petitioner and the action of the Authority has compelled the petitioner to approach this Court by way of the instant petition. Learned counsel for the respondent-Development authority has stated, on instructions, that the Development Authority is unable to consider the second prayer of the petitioner for the grant of any alternative plot similar to the commercial plot allotted to the petitioner.

11. For the aforesaid reasons, the instant petition is disposed of with the following directions:

- a) The amount deposited by the petitioner shall carry the interest at the rate of 13% per annum instead of 3.5% and the same shall be paid to the petitioner by the respondent-Development Authority within two weeks on receipt of a certified copy of this order:
- b) The Development Authority shall refund the amount deposited by the petitioner, so far, with 13% interest per annum to the petitioner within two weeks on receipt of a certified copy of this order; and
- c) The respondent-Development Authority shall also pay the cost of Rs.5,00,000/- to the petitioner towards the harassment and mental agony caused to the petitioner for their irresponsible and callous approach in the entire matter. This amount shall also be paid by the respondent-Development Authority to the petitioner within two weeks on receipt of a certified copy of this order.

12. The Registrar (Compliance) of this Court is directed to send a copy of this order to the respondent-Agra Development Authority within a week for compliance.

Order Date :- 30.4.2025 o.k.

(Anish Kumar Gupta,J.)

(Manoj Kumar Gupta, J.)

