

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.2118 of 2017

Lal Muhammad
Versus
CDA, etc.

Petitioner By : Mr. Tufeeq ul Irfan Raja,
Advocate.
Respondents By : Mr. Ghulam Shabbir Akbar,
Advocate
Date of Hearing : 21.09.2022

ARBAB MUHAMMAD TAHIR J: Initially, the listed writ petition was filed by Lal Muhammad and after his demise, being represented through legal heirs namely Aqeel, Atif, (sons) Romana, Saima (daughters) and Mst. Akhtar Rana (Widow). The prayer of the writ petition had been to the following effect:-

“Declare, that the petitioner has existing and subsisting right of the petitioner to be considered and granted regularization of the plot No. 209, street No. 06, Margalla Town, Islamabad.

Further declare, that the respondents have infringed the fundamental rights of the petitioner guaranteed by the Constitution, in particular, Art 4,9,14,23 and 24 of the Constitution by withholding the allotment/regularization of the plot in the light of the judgment of this Hon’ble Court dated 30.09.2011, and direct the respondents to forthwith regularize the plot No. 209, street No. 06, Margalla Town, Islamabad in name of petitioner.”

2. Hereinafter by the **petitioner** means late Lal Muhammad. The case, set up in the memo of the petition is to the effect tht the petitioner had purchased plot No. 209 (measuring 40 x 80 sq ft.) situated in (Poona Faqiran) Margalla Town, Islamabad “**the plot**” from one Gaba S/o Sher Muhammad alias Shero in the year 1995.

Before entering into agreement, vendee and the vendor cleared the queries related to the plot from the respondent-department from where it transpired that the plot was free from all encumbrances and that there was a clear title in the name of the original allottee Mr. Gabba. The petitioner then purchased the plot and after fulfilling codal formalities, applied for its possession and after having the same, constructed a house with lawful approval of the respondent-department. According to the petitioner, he had been enjoying possession of the house but in the year 2000, received notice from the respondent-department that the plot required regularization as being identified as forged and fabricated case. The petitioner then filed W.P. No. 2333/2008 before this Court, which was dismissed with the observation that *"the offer of CDA is still intact and petitioner either avail it or may approach to the civil Court to establish his rights"*. The petitioner in order to avail option of depositing the amount, determined by the respondent-department, deposited an amount of Rs. 240,300/- within 3 months vide pay order No. 4062624 dated 25.01.2012. The grievance of the petitioner is that despite fulfilling all the pre-requisite, the respondent-department has not yet regularized the plot. Hence, instant writ petition.

3. The respondent department in its written comments asserted that the plot was originally allotted to Gaba and subsequently transferred to petitioner Lal Muhammad. It was found being irregularly allotted to the original allottee. In a meeting of scrutiny Committee dated 14.09.2000, It was decided to regularize the plots(s) purchased by bonafide purchasers/allotees after receiving the reserved price within a stipulated period. The regularization intimation letter was issued to petitioner on 25.11.2000 with direction to signify his acceptance within fifteen days and deposit Rs 240,300/- as reserve price within thirty days. The petitioner instead to deposit the reserve price opted to file W.P. No. 1476/2008 which was dismissed vide order dated 30.09.2011. Pursuant to said order, petitioner furnished pay order

amounting to Rs. 240,300/- for reserve price along with his application for regularization on 25.01.2012.

4. According to respondent department the petitioner neither signifies his acceptance nor deposited the reserve price for regularization of the plot, pursuant to the CDA's letter dated 25.11.2000 within the stipulated period, thus the case for regularization for allotment of plot could not be processed.

5. Heard the learned counsel for the parties and examined the record with their able assistance.

6. There is no dispute that the petitioner was served with notice to deposit certain dues for regularization of the plot which he did but the contest is only to the extent that the petitioner has not responded within the stipulated period thus the case for regularization of the plot could not be processed.

7. The learned counsel for the respondent department submits that under the Islamabad Land Disposal Regulation 2005, the process of restoration of the allotment and the remedy of appeal in terms of Regulation 2022 is provided where under any aggrieved person may file an appeal within three months of such order. Likewise the procedure for restoration of allotments after the due date is also provided in the Regulations 2022.

8. It is the stance of the petitioner as reveals through Ground B that despite several letters and reminders no action has yet been taken by the respondent department who, under the law is under obligation, being public functionary, to act in accordance with law and to redress the grievances of the public in general within shortest possible time.

9. In view of above, the instant writ petition along with the documents annexed herewith and the response thereto shall be transmitted to the respondent department with the direction to

decide the same by treating it as representation in accordance with law on the subject after giving opportunity of hearing to the legal heirs of original allottee (*late Lal Muhammad*). It is expected that the respondent department shall decide the issue at the earliest.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in an open Court on ~~04~~ 10.2022

JUDGE

****//Kamran//****