

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7660 OF 2019
(Arising out of S.L.P.(Civil)No.14683 of 2018)

Mrs.Rabia Shah & Ors. . .Appellants

Vs.

Agra Development Authority and Ors. . .Respondents

O R D E R

Leave granted.

Late Shri Feroz Ahmad Shah was allotted a commercial Plot No.1 on 10th September, 1985 admeasuring 1354 square meters in Noth Vijay Nagar Yojna, Agra by the Agra Development Authority, Agra for an amount of Rs.90,720/-. He deposited the entire amount with respondent No.1 in 1985 itself but no plot was actually handed over.

It is the case of the appellants (the legal heirs of Shri Feroz Ahmad Shah) that it is only after seventeen years a letter dated 10th February, 2003 was issued in the name of late Shri Feroz Ahmad Shah that he was said to be allotted another plot admeasuring 1354 square meters admeasuring the same area which was apparently reserved for Police Chowki in Transport Nagar Yojana, Sector-5, Agra in lieu of the earlier allotment of 1985. The amount was accordingly adjusted against the new allotment. However, the plot so allotted also could not be handed over to late Shri Feroz

Ahmad Shah and on 4th September, 2004 another letter was issued for a different allotment. Instead of one plot, now six plots were said to be allotted but admeasuring the same area in total.

The story did not end at this as after another seven years once again letter dated 21st September, 2011 was issued to Shri Feroz Ahmad Shah stating that the commercial plots allotted in the year 2004 also could not be allotted to him and in lieu thereof allotted another set of separate commercial plots to him as under:

“(i) Plot No.A-96 measuing 229.44 sq. meters in Taj Nagri, Second Charan Yojna, Sector-A, Agra.

(ii) Plot No.1-A measuring 375.34 sq.meters in Taj Nagri, Second Charan Yojna, Sector-A, Agra.

(iii) Plot No.26-A measuring 836.12 sq.meters in Nehru Enclave Yojna, Agra.”

Learned counsel for respondent No.1 states that the aforesaid action arose on account of some suit proceedings initiated by Transport Nagar Committee and thus they cannot be blamed for the same. The fact however remains that despite payments, Shri Feroz Ahmad Shah could not really enjoy the plots.

The dispute really started vide letter dated 21st September, 2011 it was pointed out that the total area mentioned aforesaid was of 1440.90 square meters and excess area of 86.90 square meters was being allotted and market rate as on that date for the additional area was

Rs.21,52,166/- and in case of delay in payment, interest was leviable @ 19.5% p.a.

It is a case of the appellants before us that it was not as if Shri Feroz Ahamd Shah sought any additional land but by reason of the said circumstances all the new plots allotted being a little in excess, the additional area was being allotted. This amount was not paid. Shri Feroz Ahmad Shah passed away on 13th September, 2014.

The next development was a letter dated 25th January, 2017 issued by respondent No.1 asking him to deposit a sum of Rs.21,52,166/- without any time limit specified. In that letter there was no cancellation in default and cancellation was by letter of 27th March, 2017.

The appellants filed a writ petition before the Allahabad High Court seeking directions for handing over possession but in terms of the impugned judgment dated 16th February, 2018 the writ petition has been dismissed on the ground that there was silence on the part of the appellants for a period of seven years.

We have heard the learned counsel for the parties. We consider the course adopted by respondent No.1 is unreasonable, arbitrary and illegal the fault lies completely with respondent No.1. It is they who kept on allotting plots which late Shri Feroz Ahmad Shah could not enjoy nor possession was handed over. Even thereafter, the issue was raised by the Transport Nagar Committee for which late Shri Feroz Ahamd Shah cannot be blamed. It is not a

case where late Shri Feroz Ahmad Shah wanted some extra land, but only to meet their obligation to late Shri Feroz Ahmad Shah, that respondent No.1 allotted three plots of an area which happened to be a little more. That area was said to be charged at the current rate of 2011 which itself is hugely questionable.

In the aforesaid circumstances, it cannot be said that the delay in challenging what was done in 2011 is so belated that court would not exercise its jurisdiction, specially considering the conduct of respondent No.1. A person who has paid the full consideration as existed originally has been deprived of the enjoyment for so many years and there is no compensation for the same.

We are of the view that the appellants have taken more than a reasonable stand before us, and agree to pay the additional amount now and that too along with any interest which this court may consider fit. We thus consider it appropriate that the amount of Rs.21,52,166/- (Rupees twenty one lakhs fifty two thousand one hundred and sixty six) be deposited by the appellants together with simple interest @ 6% p.a. from the date when the amount was due till the date of deposit within a period of two months from today. On the expiry of the said period and the deposit of amount, respondent No.1 will hand over possession of three plots within a period of one month thereafter.

The appeal is accordingly allowed leaving the parties to bear their own costs.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[KRISHNA MURARI]

New Delhi;
September 27, 2019.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 14683/2018

(Arising out of impugned final judgment and order dated 16-02-2018 in WC No. 22628/2017 passed by the High Court of Judicature at Allahabad)

RABIA SHAH & ORS.

Petitioner(s)

VERSUS

AGRA DEVELOPMENT AUTHORITY & ORS.

Respondent(s)

Date : 27-09-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. V.Giri, Sr. Adv.
Mr. R.K.Das, Sr. Adv .
Mr. Amit Sharma, AOR
Mr. Dipesh Sinha, Adv.
Ms. Pallavi Barua, Adv.
Ms. Ayiala Imti, Adv.

For Respondent(s) Mr. Ajay Kumar Misra, Sr. Adv./AAG
Mr. Kamendra Mishra, AOR
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashwani Mishra, Adv.

Mr. Sudhir Kulshreshtha, AOR
Mr. Sameer Kulshreshtha, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, shall also stand
disposed of.

(ANITA MALHOTRA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file.)