

UNREPORTED

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

Date of Decision : 11th March, 2008

+ LPA 128/2008 and C.M.No.3612/2008 (for impleadment and stay)

GABDOO SINGH MEMORIAL
EDUCATIONAL TRUST

..... Appellant

Through: Mr.Sumit Bansal and Mr.Manish Paliwal,
Advocates.

versus

D.D.A.

..... Respondent

Through: Mr.Rajiv Bansal, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

% 11.03.2008

: DR. MUKUNDAKAM SHARMA, C.J. (ORAL)

1. This appeal is directed against the order dated 16th January, 2008 passed by the learned Single Judge, whereby the learned Single Judge dismissed the writ petition filed by the appellant-Trust. By the said writ petition, the appellant challenged legality of the communication issued by the Delhi Development Authority rejecting the request for allotment of adjacent land to the appellant under letter dated 16th March, 2001. The writ petition was dismissed by the learned Single Judge on several grounds, one of them being delay and laches in approaching the court. The second ground being that the appellant has

no vested right for allotment of any land. The other ground on which the writ petition of the appellant was dismissed is the vacillating stand being taken by the appellant in various representations submitted for allotment of the aforesaid land.

2. Counsel for the appellant has submitted before us that the appellant was given a hope by the respondent/DDA by stating that once it upgrades the school from nursery to middle school, its request for allotment of adjacent land would be considered and accordingly steps were taken by the appellant to get the school upgraded from nursery to middle, to satisfy the requirement spelt out by the respondent/DDA. But despite the said fact, the request of the appellant was turned down. We have considered the said submission in the light of the records. The plot in question measuring around 1000 sq. mtrs is adjacent to the land on which the appellant has already a nursery school which also measures around 1000 sq. mtrs and was allotted by the respondent/DDA. The said adjacent land was vacant and, therefore, the appellant filed an application seeking for allotment of the said land also in favour of the appellant. The request of the appellant was also forwarded by various Members of Parliament and the said request of the Members of Parliament was also considered by the Delhi Development Authority, but the same was rejected on the ground that the land user of the said adjacent land is meant for pre-primary school and, therefore, the same cannot be allotted in favour of the appellant, as the appellant requires the said land to establish the middle school upto class VIII.

3. In this connection, we may however refer to the findings recorded by the learned Single Judge in paragraph-5 of the impugned order, wherein, on perusal of the records, the vacillating stand taken by the appellant while making the request for allotment of

additional land was recorded. Initially in the year 1994, in the representation submitted for allotment of adjacent land, it was stated that the additional land was required for a play field and park. The said plea was rejected by the respondent. Thereafter, in the year 1997, i.e., after another three year period, a plea was taken that there was an increase in the number of students, therefore, additional land was required. Whereas on the third occasion, a plea was taken by the school authorities that the said additional land was required to establish a middle school upto class VIII. Even thereafter, a stand was taken by the appellant that the land was required by the appellant for construction of a library, audio-video room, music room, drama room, staff room, sand pit, etc.

4. Therefore, it is established from the records which are referred to by the learned Single Judge that the appellant has been giving different reasons and justifications and taking vacillating stand with regard to the purpose for which the aforesaid land was required. Counsel for the appellant has also taken us through some of the correspondence between the appellant and respondent. It is true that at one stage, the respondent stated that the request of the appellant could be considered if the school is upgraded, but finally on the representations submitted by the Members of Parliament on behalf of the appellant which are at pages 79 & 85 of the paper book before us, it was the consistent stand of the respondent that the aforesaid additional land cannot be allotted in favour of the appellant as the land was specifically meant only for nursery school, and that upgradation of the school from nursery to middle school would not automatically entitle the appellant for allotment of any additional land. The said Members of Parliament were also informed that the aforesaid request of the appellant was considered and that in terms of the

planning norms, the request could not be acceded to. The said intimation was given by the respondent to the appellant as far back as in 2001, whereas the writ petition came to be filed in the year 2006. The learned Single Judge has held that delay in approaching the court from 16th March, 2001 till 27th April, 2006 has also not been satisfactorily explained in the writ petition. In that view of the matter, there is also delay and laches in approaching the court. It is also pointed out that the fact that the appellant has already been allotted land for establishing a nursery school will not automatically entitle the appellant to the allotment of additional land, and the appellant, therefore, will have no vested right to get the additional land.

5. In the above view of the matter, we find no merit in this appeal and the same is accordingly dismissed.

6. C.M.3612/2008 is also accordingly dismissed.

CHIEF JUSTICE

REVA KHETRAPAL, J

MARCH 11, 2008
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