

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

**Date of decision: 30<sup>th</sup> September, 2010.**

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**W.P.(C) No.3552/2008**

**CITIZEN ROADLINES PVT LTD**

**..... PETITIONER**

Through: Mr. H.G.R. Khattar, Advocate

Versus

**M.C.D & ANR**

**..... RESPONDENTS**

Through: Ms. Saroj Bidawat, Advocate  
Ms. Meghna Sankhla, Advocate for  
Mr. Vinod Kumar Nagpal, permanent  
Managing Director of petitioner  
company.

***CORAM :-***

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

1. Whether reporters of Local papers may  
be allowed to see the judgment? No.
2. To be referred to the reporter or not? No.
3. Whether the judgment should be reported  
in the Digest? No.

**RAJIV SAHAI ENDLAW, J.**

1. The petition, filed in May 2008, impugns the order dated 9<sup>th</sup> April, 1992 of the respondent MCD cancelling the allotment of plot in favour of the petitioner at Sanjay Gandhi Transport Nagar. Mandamus is also claimed against the respondent MCD to handover the vacant, peaceful, physical possession of plot No.BG-141 earlier allotted to the petitioner.

2. It is the case of the petitioner that it was allotted the aforesaid plot and besides the payments made by it earlier, was in November 1987, called upon to pay additional amount of ₹68,200/- and which was also paid by it. It however contends that it did not thereafter receive any communication from

the respondent MCD, neither demanding any further amounts nor offering possession of the premises. The petitioner claims that for 20 years thereafter i.e. till the year 2007 it was made to run from pillar to post but to no avail. It may however be mentioned that there is not a single letter or document during the said period of 20 years to show that the petitioner was being made to run from pillar to post as is being alleged or to show that the petitioner was communicating with the respondent; there are no representations even from the petitioner.

3. The petitioner finally vide letter dated 18<sup>th</sup> June, 2007 demanded possession of the plot from the respondent MCD and was vide reply dated 27<sup>th</sup> June, 2007 of the respondent MCD informed that the allotment in favour of the petitioner stood cancelled way back on 9<sup>th</sup> April, 1992. The respondent MCD also offered to refund the registration money to the petitioner upon the petitioner submitting the original receipts.

4. The petitioner after waiting for another seven months got issued legal notice on 30<sup>th</sup> January, 2008 and as aforesaid in May 2008, filed the present petition.

5. Notice of the petition was issued and the respondent MCD has filed a counter affidavit reiterating that as on 22<sup>nd</sup> January, 1987 an amount of ₹44,880/- was due with respect to the plot; the same was not paid inspite of demands dated 22<sup>nd</sup> January, 1987, 8<sup>th</sup> February, 1987 & 4<sup>th</sup> May, 1990 and accordingly vide letter dated 9<sup>th</sup> April, 1992, the allotment was cancelled.

6. The petition is liable to be dismissed merely on the ground of laches / acquiescence. The petitioner has not shown as to what steps if any and by whom, were taken for the long period of 20 years between 1987 to 2007. The averments made of the petitioner during the said 20 years being made to

run from pillar to post are vague and unbelievable. It is also unbelievable that the petitioner did not know that allotments to those similarly situated as him were being made. The petitioner if had been interested in allotment would have pursued the matter.

7. The reason for the aforesaid delay has come out before the Court in open today. Ms. Meghna Sankhla, Advocate has appeared for one Mr. Vinod Kumar Nagpal who is stated to be the permanent Managing Director of the petitioner. She states that Mr. Vinod Kumar Nagpal has learnt of the petition now only and is not aware of the institution of the present petition. The present petition has been filed by one Sh. Sushil Kumar Chopra, Director & Constituted Attorney of the petitioner. From the facts which have unravelled today, it appears that owing to internal friction between the Directors / Shareholders of the petitioner company, the petitioner abandoned the allotment and woke up after 20 years and filed the present petition making vague averments of having been made to run from pillar to post.

8. The emphasis of the counsel for the petitioner is on a document at page 35 of the paper book and typed copy whereof is filed at page 36. The counsel for the petitioner claims that the document was obtained from the files of the respondent MCD. The document at page 35 also is without any signatures. It purports to demand a sum of ₹33,000/- from the petitioner. Though in the document at page 35, the date by which the said payment was demanded is obliterated and is only found to be put as 15<sup>th</sup> September without stating the year but in the typed copy thereof the year has been typed as 1996. The same forms the mainstay of the argument of the counsel for the petitioner. However, from the document being unsigned and from the typed copy being an improvement of the alleged original makes it out to be of a dubious character. The counsel for the petitioner admits that the said copy was not obtained through the medium of Right to Information Act. He

however vehemently contends that the respondent MCD in its counter affidavit while stating a sum of ₹44,880/- to be due has admitted that the same included electrification charges of ₹33,000/- also and which finds mention in the document at pages 35 & 36 (supra). However, the same is immaterial. The respondent MCD in the document filed along with its counter affidavit has been seeking the consolidated amount of ₹44,880/- from the petitioner and the document as appearing at page 35 & 36 has not been filed by the respondent MCD along with its counter affidavit as was sought to be suggested by the counsel for the petitioner. The document at page 35 appears to have been manufactured by the petitioner for the purpose of the present writ petition.

9. There is no explanation whatsoever for the long delay after which the petition has been filed. The petitioner after such long lapse of time cannot impugn the order of cancellation and / or demand allotment.

10. Though an interim order restraining the respondent from dealing with the plot was made and the counsel for the petitioner also contends that the petitioner during the pendency of the proceedings has sent a cheque / pay order for the sum of ₹1,20,000/- to the respondent MCD and which has been returned but all this would be of no avail to the petitioner.

The petition is dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW  
(JUDGE)**

**30<sup>th</sup> September, 2010**  
'gsr'..