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

+ W.P.(C) 205/2009

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***Judgment Delivered on: 15.04.2010***

KARAM SINGH

..... Petitioner

Through: Mr.Sandeep Thakur, Advocate

versus

DDA

..... Respondent

Through: Mr.Rajiv Bansal, Ms.Harsimran Kalra  
and Mr.Harshit Aggarwal, Advs. for DDA.  
Mr.Sanjay Poddar & Ms.Deepika, Advs. for  
respondent-Land & Building Department.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

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

**G.S.SISTANI, J. (ORAL)**

1. This matter has been listed today as 14<sup>th</sup> April, 2010, was declared holiday on account of birthday of "Dr. B.R. Ambedkar".
2. Rule. With the consent of counsel for the parties, present petition is set down for final hearing and disposal.
3. The facts of the case as set out in the petition are that land of the petitioner's father (late Sh.Gagan Singh) was acquired in the year 1962 vide award No.987, 1271 & 2223 dated 14.03.1962. The said land after acquisition was handed over to the DDA for development purposes. On 26.10.1971, father of the petitioner received balance amount of compensation from the Court of the Additional District Judge under sections 30 and 31 of the Land Acquisition Act. In the year 1979 father of the petitioner died intestate. The petitioner received payment certificate from the Land Acquisition collector on 05.05.1986 and after receiving the same. Petitioner applied on

30.05.1986 for an alternate plot in lieu of his acquired land within the stipulated period.

4. On 27.02.1987 respondent no.1 called upon the petitioner to submit certain documents. It is submitted by counsel for the petitioner that the legal heirs of (late Sh.Gagan Singh) executed a relinquishment deed in favour of the petitioner which was registered in the Office of Sub-Registrar Delhi and was submitted with the respondent no.1. Counsel for petitioner submits that the original death certificate of late Sh.Gagan Singh, as asked by the Department, was submitted on 30.06.1987; and that pursuant to the letter dated 14.09.1987, Fard Khatoni was deposited by the petitioner in the office of respondent no.1. Petitioner also deposited the Deed of Indemnity, Affidavit and Khatoni etc. on 12.09.1988, as demanded by respondent no.1 vide their letter dated 07.06.1988.
5. It is the case of the petitioner that as and when documents were demanded, petitioner submitted the same. However, his request for grant of an alternate plot has not been allowed, which has forced him to approach this court for appropriate relief.
6. A short affidavit has been filed by the Land and Building Department. According to which the case of the petitioner was processed and examined and he was asked to furnish requisite documents vide office letter dated 24.05.1993 and a reminder was also issued on 05.09.1993. However, despite opportunities granted, the petitioner failed to provide requisite information, hence the case of the petitioner was closed and petitioner was intimated vide letter dated 01.12.1993. Counsel for respondent further submits that a representation was filed by the petitioner to the Department on 07.05.2002. Thereafter, petitioner was again informed vide letter dated 09.08.2002 that his case for alternate flat has already been closed and there is no change in the status.
7. Counsel for petitioner has strongly urged before this Court that petitioner was entitled to an alternate plot in view of the policy of

the respondent and also that all the documents and formalities stood completed at his end and it was for the respondent to consider his case and hand over the plot to him.

8. Counsel for Land & Building Department submits that as per the policy a recommendation is to be made by the Land & Building Department, which is to be considered by the DDA, subject to availability of flat. He also submits that even otherwise, no vested rights is created in favour of the petitioner as has been held by a Full Bench of this Court in **Ramanand Vs. Union of India**, AIR 1994 Delhi 29 and more particularly paragraphs 27 and 28:

“27. Lastly, on the basis of certain observations made in a Full Bench decision of this Court in Shiv Devi Vs. Lt. Governor, Delhi, 1986 R.L.R. 557 : (AIR 1987 Delhi 46), it was contended that it is in public interest that individuals who have lost their land as a result of acquisition should be given alternative accommodation, and that it is the duty of the State to give the same. In our opinion, observations to this effect were made, in para 20 and 21 of the judgment, for explaining the beneficial object of the scheme for allotment of alternative plots, in a different context. In that case, reference to the full Bench was made on the question as to who is entitled to the benefit of allotment of a plot on the acquisition of land. This question had arisen in the light of three phases of acquisition proceedings envisaged under the Land Acquisition Act, namely, when the notification under Section 4 is issued, when the declaration under Section 6 is made, and when the land is actually acquired by making an award. Earlier, the view taken by various Benches was that individuals whose land has been acquired would be considered for allotment of an alternative plot for residential purpose in certain circumstances. Then, in *Krishan Kumar Manik Vs. Union of India* it was held that the person who owned the land at the time when the notification under Section 4 was issued, and not the subsequent transferees, would be entitled to apply for an alternative plot. The Full Bench disagreed with the view taken in *Krishan Kumar Manik*’s case confirmed the view taken earlier that individuals whose land had been acquired would be “entitled to be considered” for allotment of a plot “in certain circumstances”. It was further held that any one whose land has been acquired “is entitled to apply” for

allotment of an alternative plot. The observations made in this judgment really go against the proposition sought to be advanced on behalf of the petitioner.

28. As a result of the above discussion, we find that an individual whose land has been acquired for planned development of Delhi, has no absolute right to allotment, but, he is eligible to be considered for allotment of an alternative plot for residential purposes; and that the DDA may allot Nazul land to such an individual, in conformity with the plans and subject to other provisions of the Nazul Rules.”

9. Mr.Poddar and Ms.Deepika, Advocates further submit that the case of the petitioner is barred by delay and laches. It is contended that the case of the petitioner was closed as far back as in the year 1993. Despite information having been received, petitioner has approached this Court only in the year 2009. Counsel for respondent also relied on a judgment of Single Bench of this court in **Mishro Devi Vs. Secretary Land and Building Department, GNCT of Delhi & Anr.** [WP(C)No.1515/2007] and more particularly paragraphs 3, which reads as under:

“3. Be that as it may, the fact remains that the petitioner had moved an application in 1983 and had not bothered to enquire about the same till 2005. There is nothing to indicate that the petitioner was at all interested in the allotment of the land during these 18 years. The courts help citizens who are vigilant and not those who sleep over their rights. Eighteen years of unexplained delay and thereafter two years of further delay in approaching this Court would definitely fall within the expression “laches”. It is on this ground that this writ petition is dismissed.”

10. He further submits that this judgment was confirmed by the Division Bench in LPA No.221/2007 and para 9 of which reads as under:

“9. Thus as there is inordinate and unexplained delay in preferring the writ petition, the learned Single Judge has rightly held that delay defeats equity and that the Court should not give directions for allotment of alternative plot of land to a person who has slept over her rights for 18 long years. There is no merit in this appeal and the same is dismissed.”

11. It is further contended that this principle has been followed in the case of **Ramesh Chand Sharma Vs. Lt. Governor of Delhi** [LPA No.1275/2007] as well as in the case of **Ram Niwas Vs. Govt. of NCT of Delhi**, [WP(C)No.3936/2008].
12. Counsel for petitioner has relied on a decision of a single Judge of this Court in **Veerwati Vs. Govt. of NCT of Delhi** [WP(C)No.3393/2007], wherein in similar circumstances Single Judge had directed the respondents to re-open the case of the petitioner and decide afresh.
13. Counsel for respondent submits that against the above said judgment an LPA No.101/2010 was filed, wherein after hearing both the parties, the Division Bench on 08.02.2010, passed the interim orders and stayed the operation of the aforesaid judgment. Counsel for respondent has handed over a copy of the said order.
14. I have heard counsel for the parties. The basic facts are not in dispute that the land of the petitioner's father was acquired in the year 1962 and compensation was received in the year 1971. Admittedly, the legal heirs of deceased (late Sh.Gagan Singh) had moved an application for allotment of an alternate plot. This application was considered and the petitioner was informed by the Land & Building Department that due to deficiencies the case of the petitioner has been closed. The original record, dispatch register has been produced in Court, to show that this letter dated 1.12.1993 was sent to the petitioner, carbon copy of which has also been produced which reads as under:

“GOVT OF THE NATIONAL CAPITAL OF DELHI  
LAND AND BUILDING DEPARTMENT,  
VIKAS BHAWAN, NEW DELHI  
NO.F.33(23)/2/816/I&B/A,t/29207 Dt. the 1.12.93

To,

Shri Karam Singh,  
S/o.Shri Ganga Singh,  
R/o. H.No.358, Vilage, P.O. Wazirpur,  
Delhi.

Sir/Madam,

Kindly refer to this office letter of even number dated 24.5.93 and subsequent reminders dated 15.9.93 sent by regd./post in which you were asked to supply the requisite documents/ information by 28.9.93. As you failed to comply with this office letter cited above, I am directed to inform you that in the absence of the documents/ information it is not possible for this Administration to process your case any further, hence closed.

Yours faithfully,

(H.D. BIRDI)  
JOINT SECRETARY (L&B)

15. Counsel for petitioner has failed to render any satisfactory explanation for the delay. In the case of **Karnataka Power Corpn. Ltd. v. K. Thangappan**, (2006) 4 SCC 322, it has been specifically held that if writ jurisdiction is exercised after unreasonable unexplained delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties, and has held that:

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad v. Chief Controller of Imports and Exports*<sup>1</sup>. Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd*<sup>2</sup> (PC at p. 239) was

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<sup>1</sup> (1969) 1 SCC 185 : AIR 1970 SC 769.

<sup>2</sup> 2 (1874) 5 PC 221 : 22 WR 492.

approved by this Court in *Moon Mills Ltd. v. M.R. Meher*<sup>3</sup> and *Maharashtra SRTC v. Shri Balwant Regular Motor Service*<sup>4</sup>. Sir Barnes had stated:

“Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy.”

**8.** It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose v. Union of India*<sup>5</sup> that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.

**9.** It was stated in *State of M.P. v. Nandlal Jaiswal*<sup>6</sup> that the High Court in exercise of its discretion does not ordinarily assist the tardy

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<sup>3</sup> AIR 1967 SC 1450.

<sup>4</sup> (1969) 1 SCR 808 : AIR 1969 SC 329.

<sup>5</sup> (1970) 1 SCC 84 : AIR 1970 SC 470.

<sup>6</sup> (1986) 4 SCC 566 : AIR 1987 SC 251.

and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction."

16. Taking into consideration the facts of this case, I am satisfied that the case of the petitioner is similar to that of the cases of **Ramesh Chand Sharma(Supra)**, **Ram Niwas (Supra)** and **Mishro Devi (Supra)**. There is no explanation as to why the petitioner did not approach the Court after case of the petitioner rejected in the year 1993. The petitioner has approached this court after inordinate delay without any reasonable explanation. Consequently, petition is dismissed.

**G.S. SISTANI, J.**

**April 15, 2010**  
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