

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA No.658 of 2011 & CM No. 15098/2011**

% *Reserved on: 12th December, 2011.*
Pronounced On: 7th March, 2012.

GOVT. OF NCT OF DELHI . . . APPELLANT

Through: Mr. Arun Birbal, Advocate.

VERSUS

JAGDISH SINGH . . . RESPONDENT

Through: Mr. S.K. Rungta, Sr. Advocate
with Mr. Prashant Singh and
Ms. Neha Tanwar, Advocates.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

A.K. SIKRI, Acting Chief Justice

1. Vide impugned judgment dated 23.2.2011 rendered by the learned Single Judge in writ petition filed by the respondent herein, the petition has been allowed setting aside the decision of the Committee on allotment of alternative plots dated 31.8.1999 rejecting the respondent's claim for an alternative plot with direction to consider the case afresh in the light of the observations made by the learned Single Judge. That order is in challenge in the present intra-Court appeal. The factual matrix leading to the present appeal is as under:

The Delhi Development Authority (hereinafter referred to as 'DDA') had framed a scheme for allotment of alternative plots for those persons whose lands were acquired. This scheme is dated 02.5.1961 (hereinafter referred to as '1961 Scheme'). The 1961 Scheme *inter alia* contemplated that land may be allotted at pre-determined rates, viz., at the cost of

acquisition and development plus the additional charges mentioned in the scheme, to individuals whose land has been acquired as a result of the Chief Commissioner's notifications dated 17.7.1959, 03.9.1957, 13.11.1959 and 10.11.1960 or other such notifications with a view to rehabilitate such individuals. Pursuant to the 1961 Scheme, land owners whose land was acquired, applied for allotment of alternative plots in respect of advertisements inviting applications and after the necessary requirements as stipulated in the 1961 Scheme were complied with, plots were allotted to the persons who were the recorded owners prior to the issue of notification under Section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act'). Vide an Office Order dated 03.4.1986, the 1961 Scheme was further amended.

2. Under the Scheme, DDA has been considering the cases of the individuals as and when such persons, whose lands have been acquired, have been making application for allotment of alternative plot on the acquisition of their lands. For this purpose, a committee called "Committee on Allotment of Alternative Plots" ('the Committee' in short) was constituted by the DDA. Land of the respondent herein was acquired twice under the provisions of the Act. First time this land was acquired vide award passed in the year 1967. The respondent had made a request for alternative plot which was considered favourable in terms of the prevalent policy. As per the DDA on the recommendation of Land & Building Department ("L & B Department" for brevity) contained in letter dated 30.11.1967, the respondent was even offered an alternative plot admeasuring 400 square yards in East of Kailash and was asked

to deposit the earnest money of ₹4,500/-, but he did not come forward and deposited the said earnest money and therefore, this offer lapsed and stood withdrawn by the DDA on 07.5.1969. The respondent herein claims that he never received such an intimation of alternate plot and therefore, could not deposit the said money. He did not come to know about the said withdrawal.

3. Be as it may, another set of land of the respondent in Village – Sahibabad was again acquired on 31.3.1977 vide award No.29/76-77. He applied for another alternative plot on 06.2.1984. This application was considered, but was rejected by the Committee in its meeting held on 31.8.1999 on the ground that the respondent was earlier recommended an alternative plot on 30.4.1987 and as per the Scheme, a person could be allotted land only once in his life time. The respondent filed writ petition challenging this rejection. Learned Single Judge has set aside the aforesaid decision on the ground that in terms of Policy of L & B Department, one of the conditions making a person ineligible is where he has already been allotted a plot of land or recommended earlier for allotment of an alternative plot of land. Once a person is allotted an alternative plot in lieu of one set of lands acquired from him, there can be no further allotment of an alternative plot in lieu of the lands subsequently acquired under a separate award. Additional reason is given that the respondent, in fact, did not get an alternative plot purportedly at the first time in 1967 and therefore, there is no bar to his being allotted an alternative plot.

4. Challenging this order, two submissions are made by the learned counsel for the appellant. In the first instance, it is argued that the petition suffered from laches and delay. When the request was rejected in the year 1999, there was no cogent explanation for filing the petition in the year 2009. That is after a delay of a decade. This contention is not accepted by the learned Single Judge giving the following reason:

“5. As regards the plea of laches, this Court is of the view that the explanation offered by the petitioner, who is a villager pursuing his plea for alternative land for several years with the respondents, is satisfactory. In any event, the application made in 1984 was considered by the respondents themselves after 15 long years in 1999. Further, this Court takes judicial notice of the fact that there is still a long waiting list of persons whose lands have been acquired several years ago and who are yet to be allotted alternative plots.”

5. It is submitted that the aforesaid reasons accepted by the learned Single Judge for entertaining the petition after 10 years is not legally justified. Merely because the respondent is a villager would not mean that he could wait for 10 years before approaching the Court without giving any reason for the delay. Moreso, when even according to the learned Single Judge, he was pursuing his remedy consistently and following his representation before the DDA when it was pending.
6. We find force in this submission. We may point out that when the respondent received rejection letter dated 23.2.1999, he responded to the same vide his letter dated 14.7.1999 refuting the stand of the DDA by alleging that he had never received any letter qua the first allotment.

7. Thus, it cannot be said that the respondent was ignorant. He was aware of his rights. In such circumstances, after receiving the rejection order in the year 1999, there was no reason for him to wait for an abnormal period of ten years before approaching the Court in the year 2009. We have to keep in mind that the purpose of the scheme for allotment of alternate plot is to give succour for those persons whose lands were acquired and on this deprivation; they become homeless or need house in this city. Such persons have to file appropriate application within time and it is also necessary for them to avail legal remedies without delay. Since we find that there is an inexplicable delay of more than ten years, that itself is sufficient to reject the petition of the appellant.
8. Second submission of the learned counsel for the appellant was that in any case, the plea of the appellant for alternate plot could be considered only in terms of prevalent policy on the date of consideration and as per the policy, the appellant would not be entitled to the plot. This policy reads as under:
- "3. If any person himself or his wife/husband, dependent relative including any unmarried child:
- (a) Is having a plot or residence in whole or in part whether in Delhi or in the urbanised areas in Delhi, New Delhi or Delhi Cantonment except in Village Abadi whether on lease hold or free hold basis; and/or
 - (b) Has been allotted a plot of land or recommended a plot of land
 - (c) Is a member of cooperative housing society or cooperative group housing society
- Then such person shall not be eligible for allotment of alternate plot."

9. However, as we are holding that the writ petition was liable to be dismissed on the ground of laches and delay, it is not necessary to go into this contention. We, thus, allow this appeal and set aside the impugned order of the learned Single Judge. The result would be that the writ petition filed by the respondent herein is dismissed.

No costs.

ACTING CHIEF JUSTICE

**(RAJIV SAHAI ENDLAW)
JUDGE**

MARCH 07, 2012

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