

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

Reserved on: 26th November, 2013
Pronounced on: 5th December, 2013

+ **W.P.(C) 1582/2013**

BABU RAM

..... Petitioner

Through Mr. Puneet Goel, Advocate

versus

LAND & BUILDING DEPARTMENT & ANR

.....Respondents

Through Ms. Urvi Kuthiala, Adv. for R-3/DDA.

CORAM:

HON'BLE MR. JUSTICE G.P. MITTAL

J U D G M E N T

G.P. MITTAL, J.

1. By virtue of this writ petition under Article 226 of the Constitution of India, the Petitioner seeks a writ of *mandamus* directing reopening of his File No.F.30(10)/28/29/89/L&B/Alt 4425, dated 06.02.1992 for allotment of an alternative plot, which was closed by letter dated 06.02.1992.
2. The Petitioner further seeks allotment of alternative plot in lieu of his acquired land. According to the averments made in the writ petition, 1447 *Bighas* of the Petitioner's land situated in the area of Karkardooma was acquired by Notification No.F.15(III)/59-LSC, dated 13.11.1959 for planned development of Delhi. Award No.54/69-70 dated 30.03.1971 was passed in this regard. As per the policy of the Delhi Govt. any person whose land measuring more than 10 acres is acquired is eligible for alternative allotment of a plot measuring 400 sq. yds.
3. By an application dated 27.04.1989, the Petitioner applied for allotment of an alternative plot of land in lieu of the land acquired as per the policy

of the Govt. of NCT of Delhi. The Petitioner also submitted a copy of *jama bandi* by letter dated 30.07.1990 in response to the letter dated 03.07.1990 written by Respondent No.1.

4. The Petitioner's grievance is that despite expiry of sufficient time, the Petitioner failed to receive any response from the Respondents and therefore, he moved an application under the Right to Information Act, 2005 in the office of Respondent No.1 and then obtained a certified copy of the file relevant to the Petitioner's application for alternative allotment of a plot.
5. The Petitioner was shocked to learn that his file was closed as he (the Petitioner) had failed to furnish the required documents in spite of receiving letters dated 03.07.1990 and 31.01.1992. It is stated that the letter dated 31.01.1992 was never received by the Petitioner. It is further stated that the record appears to have been manipulated by the Respondents to cover up their own wrong.
6. In the counter affidavit filed by the Respondents, it is stated that by a letter dated 20.07.1990, the Petitioner was asked to deposit various documents, viz., affidavit as per specimen, *jama bandi*, *khatoni* attested by *Tehsildar*, Relinquishment Deed, if any etc. In response to the said letter, the Petitioner furnished a copy of the *jama bandi*, which was in Urdu. Since the *jama bandi* was in Urdu, the same could not be understood by the officials and thus, the Petitioner was asked to furnish a translated copy thereof. Thereafter, Respondent No.1 by a letter dated 13.01.1992 again required the Petitioner to furnish the documents, failing which his case would be closed. Despite repeated written requests, the Petitioner failed to furnish the required information. The Petitioner's

case was therefore, closed and he was informed about the same by a letter dated 06.02.1992. The letter closing the Petitioner's case was duly delivered at his address and there is no policy to reopen the closed case. Thus, Respondent No.1 has prayed for dismissal of the present writ petition.

7. At the outset, it was stated by the learned counsel for the Respondents that there was a clerical mistake in the letter dated 06.02.1992 written to the Petitioner in mentioning the dates of the two letters as 03.07.1990 and 31.01.1992. He has submitted that in fact the Petitioner was written letters dated 03.07.1990 and 13.01.1992.
8. The Petitioner himself has placed on record letter dated 03.07.1990 (Annexure P-5), letter dated 13.01.1992 (Annexure P-7) and letter dated 06.02.1992 (Annexure P-8) purported to have been written by Respondent No.1, through which the Petitioner's case for allotment of alternative plot was closed. As per the case of Respondent No.1, letters dated 03.07.1990 and 13.01.1992 were written seeking certain documents from the Petitioner and on his failure to do the same, his file was closed by letter dated 06.02.1992.
9. In the entire writ petition, it has nowhere been averred by the Petitioner that the letter dated 13.01.1992 and 06.02.1992 were not received by him. After the closure of his case in the year 1992, the Petitioner woke up only in 2012 when he moved certain applications under the RTI Act and approached the Public Grievance Commission for redressal of his grievance.

10. The learned counsel for the Petitioner submits that Respondent No.1 has now invented a false story of writing letters dated 13.01.1992 and 06.02.1992. He relies on the judgment of this Court in *Lekh Ram v. Land & Building Department & Ors.*, W.P.(C) No.2118/2013, decided on 22.04.2013 to urge that a time bound direction can be issued to process the Petitioner's application for allotment of an alternative plot.
11. The authority cited by the learned counsel for the Petitioner is not attracted to the facts of the present case. In the aforesaid case, the application of the Petitioner was not processed and his case had not been closed and he (the Petitioner in that case) only wanted processing of his application in a time bound manner. I have already observed above that the writ petition is completely silent that the letter dated 13.01.1992 asking for some documents and then the letter dated 06.02.1992 closing the Petitioner's case were not received by him. In the absence of any denial, it has to be presumed that these letters were duly received. Although it is not the case of the Petitioner that the letters dated 13.01.1992 and 06.02.1992 were not received by him, even if that would have been so, he cannot be granted relief if he approaches this Court after a long period of twenty years.
12. It is true that the provisions of Limitation Act, 1963 do not apply to the proceedings under Article 226 of the Constitution of India, but in a catena of cases it has been held that if a writ petition is filed beyond the period of limitation prescribed for filing a civil suit for a similar cause, the High Court would be well entitled not to entertain the petition on the ground of delay and laches.

13. In *State of Madhya Pradesh and Another v. Bhailal Bhai & Anr.*, AIR 1964 SC 1006, the Supreme Court held as under:-

“21. Learned Counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Art.226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Art. 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy but where the delay is more than this period, it will almost always be proper for the Court to hold that it is unreasonable.....”

14. Similarly in *Banda Development Authority, Banda v. Moti Lal Agarwal & Ors.*, (2011) 5 SCC 394, the Supreme Court laid down that if a writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court should not ordinarily entertain the writ petition. In para 17, the Supreme Court held as under:-

“17. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.”

15. In the instant case, the Petitioner approached the Respondent and the Public Grievance Commission only in 2012, that is, after 20 years of the closure of his case.

16. This case is squarely covered by the judgment of the Division Bench of this Court in *Govt. of NCT of Delhi v. Jagdish Singh*, 192 (2012) DLT 368, wherein it was reiterated that a person should approach the Court within reasonable time to avail legal remedy. The delay of ten years in approaching the Court was stated to be an abnormal delay by the Division Bench. Paras 6 and 7 of the judgment in *Jagdish Singh* are extracted hereunder:-

“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.”

17. On account of this abnormal delay of twenty years in approaching the Court and that too when the receipt of the letters dated 13.01.1992 and 06.02.1992 is not specifically denied by the Petitioner, this Court will not entertain the writ petition.
18. The writ petition is accordingly dismissed.

(G.P. MITTAL)
JUDGE

DECEMBER 05, 2013

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