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

+ W.P.(C) 5212/2013

RAGHUBIR DHAWAN Petitioner
Through Ms. Sumita Rani Sharma with
Mr. Banamali Shukla, Advocates

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through Ms. Shobhna Takiar with Ms. Ritagya
Riti, Advocates

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Date of Decision: 23rd August, 2013

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

CM APPL. 11715/2013 in W.P.(C) 5212/2013

Keeping in view the averments in the application, delay in re-filing the petition is condoned.

Accordingly, present application stands disposed of.

W.P.(C) 5212/2013

1. Present writ petition has been filed under Articles 226/227 of the Constitution praying for allotment of a flat to the petitioner under New Pattern Registration Scheme, 1979 (HUDCO).

2. The relevant facts of the present case are that in September 1979 petitioner deposited with SBI an amount of Rs. 250/- as demanded by the DDA for registration under New Pattern Registration Scheme, 1979.
3. In 2012 that petitioner filed an RTI application for ascertaining the status of his registration. It is petitioner's case that it was only through RTI application that petitioner came to know that he had been allotted a flat in 1991 and due to non deposit of money, the same had been cancelled in 1992. Learned counsel for the petitioner submits that the present case is covered by the judgment of this Court in *Madhu Arora Alias Hony Monga Vs. Delhi Development Authority, W.P.(C) 343/2012* decided on *26th February, 2013*.
4. On the other hand, Ms. Shobhna Takiar, learned standing counsel who appears on advance notice on behalf of respondent-DDA states that present case is barred by delay and laches inasmuch as the present petition has been filed in 2013, whereas cancellation of the petitioner's flat had taken place in 1992 and the NPRS Scheme had been closed after publication of advertisements in newspapers in 1996. She has also produced the original file which shows that allotment letter and cancellation letter had been issued to petitioner at the address mentioned in the registration form and the same had not been returned back undelivered.
5. In rejoinder, learned counsel for petitioner states that petitioner never received either the allotment or the cancellation letter.
6. Since it is the respondent's case that the allotment as well as cancellation letter had been sent at petitioner's last known address which had not been received back unserved and the NPRS Scheme had closed in 1996 after publication of advertisements in leading newspapers, this Court is of

the view that knowledge would have to be imputed to the petitioner and the cause of action to file the present writ petition would be deemed to have accrued at least on the day of publication of advertisements, if not earlier. A Division Bench of this Court in ***Satnam Dass Narang Vs. D.D.A., L.P.A.*** 16/2013 decided on 8th January, 2013 has held as under:-

*“8. It was noted by this Court in **Prem Bhatnagar**(supra) that DDA had issued advertisements in newspapers calling upon registrants of undelivered demand-cum-allotment letters to approach them for allotment. If DDA has been issuing advertisements in leading newspapers asking the registrants of undelivered demand-cum-allotment letter to approach them for doing the needful and had also provided the facility of ascertaining the status of the registrations on its website, that also, in our opinion, be a relevant circumstance to be taken into consideration in cases of this nature. The purpose of issuing advertisements in leading newspapers, along with the registration numbers of those whose demand-cum-allotment letters were received back unserved is to bring it to the notice of the registrants, particularly those whose addresses have changed that the allotment letters dispatched to them having been received unserved, they should immediately contact DDA to make payment and obtain possession of the flat allotted to them. To exclude such advertisements, issued at considerable expenditure, altogether from consideration, would, therefore, not be appropriate. Also, the registrants particularly those who are computer literate need to make use of the facility of verifying the status of their registration on the website of DDA. It can hardly be disputed that mere public notice would not be sufficient and reasonable efforts need to be made to deliver the demand-cum-allotment letter upon the allottee by sending it to the residential address as well as the occupational address, if any, available in the record of DDA. But, the obligation of DDA, in our opinion does not extend beyond sending such letters to the last residential and last occupational address disclosed by the registrants to it and no external enquiry needs to be made by it to ascertain the new place of residence or the new place of employment/business of the registrant.”*

(emphasis supplied)

7. Further, the Supreme Court with regard to delay and laches in ***State of Madhya Pradesh and another vs. Bhailal Bhai & Anr., AIR 1964 SC 1006*** has observed, “.....*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.....*”

8. Recently, the Supreme Court in ***Banda Development Authority, Banda Vs. Moti Lal Agarwal & Ors., (2011) 5 SCC 394*** has held “*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.*” Consequently, this Court is of the view that present writ petition is not maintainable as it is barred by delay and laches.

9. This Court is further of the opinion that the case of ***Madhu Arora Alias Hony Monga*** (supra) is clearly distinguishable on facts inasmuch as in

the said case petitioner was in constant touch with DDA and was informed by the DDA that her file had been misplaced. In the present instance, no exchange of correspondence between petitioner and DDA has been placed on record other than an RTI application filed in 2012.

10. Accordingly, present petition is dismissed, but with no order as to costs.

MANMOHAN, J

AUGUST 23, 2013

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