

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 26.08.2013

+ LPA 613/2013

MEHAR SINGH LOH & ORS

..... Appellants

versus

AIRPORT AUTHORITY OF INDIA & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr Sanjay Sharawat and Mr Ankit Gyan.
For the Respondent : Digvijay Rai, Standing Counsel for R-1/AAI.
Ms Jhum Jhum Sarkar, Advocate for R-3.
Mr Arun Birbal, Advocate for DDA.

CORAM:

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED, ACTING
CHIEF JUSTICE
HON'BLE MR. JUSTICE VIBHU BAKHRU**

JUDGMENT

BADAR DURREZ AHMED, ACJ (ORAL)

CM No.12866/2013 (Exemption)

The exemption is allowed subject to all just exceptions.

LPA 613/2013 & CM No.12865/2013 (Directions)

This appeal is directed against the order dated 15.07.2013 passed by a learned Single Judge of this Court in W.P.(C) No.340/2013. In the writ petition, the appellants/petitioners had sought the following reliefs:-

“(a) Issue a Writ of Certiorari and quash impugned order dated 17.11.2006 (Annexure P-1) passed by Respondent No.3; and

- (b) Issue a Writ of **Mandamus** and command the Respondents to allot to the petitioners an alternative plot measuring 200 sq. Mtrs at rehabilitation site in village Rangpuri, Delhi in lieu of acquisition of lands owned by their predecessor in interest namely late Ramjas in Village Nangal Dewat, Delhi ; and
- (c) Pass any other and further order(s) as deemed fit and proper.”

It is apparent that the very first prayer in the writ petition pertains to the order dated 17.11.2006 passed by a Nodal Officer the terms of which have been set forth in the impugned order and need not be repeated hereunder. The second relief that the appellants/petitioners sought was for allotment of an alternative plot measuring 200 sq. mtrs. in the rehabilitation site in Village Rangpuri, Delhi in lieu of land allegedly owned by the appellant’s predecessor in interest in Nangal Dewat, Delhi.

Insofar as, the challenge to the order dated 17.11.2006 is concerned, the learned Single Judge observed that while the same could be challenged by way of a writ petition, the same had to be done within a reasonable period of time. The order was passed in 17.11.2006, whereas the writ petition was filed after a lapse of more than six years and, therefore, the learned Single Judge was of the view that the writ petition was barred by delay, laches and acquiescence. In support of the stand, the learned Single Judge placed reliance on the Supreme Court’s decision in **State of Madhya Pradesh & Anr. V. Bhailal Bhai & Anr.**: AIR 1964 SC 1006. The Court observed that the period of delay could be considered unreasonable even if it is less than the period of limitation prescribed for approaching a civil court for a similar remedy but where the delay is more than the period prescribed for a civil action, it is almost always proper for the Court to hold

that the delay is unreasonable. It is in this backdrop, that the learned Single Judge came to the conclusion that the delay of six years was unreasonable.

The other aspect of the matter is that all the suits had been directed to be transferred to the Original Side of this Court in accordance with the directions dated 31.07.2007 passed in CM(M) No.564/2007 and the order dated 01.12.2008 passed in CM(M) No.1066/2007. In this backdrop, the Court observed that the Additional District Judge should not have proceeded with the suit but should have transferred the same to the Original Side of this Court in accordance with the aforesaid order dated 31.07.2007. Consequently, the learned Single Judge set aside the order dated 15.12.2012 passed by the Additional District Judge and transferred the Civil Suit No.12/2007 to the Original Side of this Court in accordance with the directions dated 31.07.2007 passed in CM(M) No.564/2007. The learned Single Judge directed the parties to appear before the Registrar for completion of pleadings on 03.08.2013. The next date in the matter before the Registrar is 18.01.2014.

The learned counsel for the appellant sought to take refuge under the decision of a learned Single Judge of this Court in the case of **Airports Authority of India v. Karan Singh: 141 (2007) DLT 277.** The learned Single Judge noted the said decision of another learned Single Judge of this Court in **Karan Singh** (*supra*) and held that the said decision would offer no assistance to the appellants inasmuch as the said judgment only directed that an order of the Nodal Officer could only be challenged by way of a writ petition. The learned Single Judge observed that in the present case, the petitioners/appellants had accepted the order of the Nodal Officer and

had filed a Civil Suit in accordance with the decision of the Nodal Officer. Consequently, the learned Single Judge held the said decision in **Karan Singh** (*supra*) to be inapplicable to the facts of the present case. We agree with the view taken by the learned Single Judge in the present case. First of all, the decision in **Karan Singh** (*supra*) is that of a learned Single Judge and would, therefore, not be binding on this Court. Secondly, the decision in **Karan Singh** (*supra*) does not come to the aid of the appellants. On the contrary, perhaps runs counter to the case of the appellants, inasmuch as, in paragraph 26 of the very same decision, the Court had observed that the relief being granted in some of the petitions by virtue of the said order in **Karan Singh** (*supra*) is confined to the petitioners covered by the order and would not result in reopening the claims of those who had not challenged the order of the Nodal Officer till date. It is an admitted position that the order dated 17.11.2006 passed by the Nodal Officer in the present case had not been challenged by the appellants. In fact, the Civil Suit filed by the appellants was in terms and on the basis of the order passed by the Nodal Officer. Therefore, the learned Single Judge was correct in holding that the same could not now be challenged after such an inordinate and unreasonable delay. The learned counsel for the appellants sought to argue that the decision in **Karan Singh** (*supra*) barred recourse to civil suits. We do not read any such limitation prescribed by the said Court. This becomes clear if one were to read paragraph 45(vi) of the said decision wherein the learned Single Judge had observed that given the litigation history of the cases involving village Nangal Dewat, Civil Courts ought not to have entertained suits filed by persons “who never filed a claim before the Nodal Officer”. This is not the case of the appellants before us, inasmuch as, they

had filed claims before the Nodal Officer and the same had been disposed of by virtue of the order dated 17.11.2006. That order was not challenged by the appellant and instead the appellants had filed a suit on the basis of that order. Therefore, they cannot be permitted to now challenge the order dated 17.11.2006.

The learned Single Judge has correctly relegated the appellants to the Civil Suit, which is to be heard in the Original Side of this Court as directed by the learned Single Judge.

We find no infirmity in the impugned order. The appeal is dismissed. There shall be no order as to costs.

BADAR DURREZ AHMED, ACJ

VIBHU BAKHRU, J

AUGUST 26, 2013
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