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

% *Judgment delivered on: 3rd September, 2014*

+ W.P.(C) 5936/2013

NATHU SINGH

..... Petitioner

Represented by: Mr. N.S. Dalal, Mr. Amit Rana
and Mr. Devesh Pratap Singh, Advs.

Versus

LAND & BUILDING DEPARTMENT

..... Respondent

Represented by: Mr. Siddharth Panda, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the present petition, petitioner seeks direction thereby quashing the order dated 16.05.2013 vide which application of the petitioner for allotment of alternative plot has been rejected.

2. The land of the petitioner was acquired pursuant to notification dated 24.03.1969 and award of compensation was passed in 1962, accordingly the petitioner received compensation on 10.06.1962. Thereafter on 26.08.1985, the petitioner filed an application for allotment of alternative plot. However, the same has been rejected for the reasons as under:-

“With reference to the above-mentioned subject, it is to inform you that your case for alternative plot in lieu of acquired land has been placed before the meeting of Recommendation Committee held on 03.04.2013 and the Committee observed

that compensation was received by the applicant on 10.09.1962 whereas the application for allotment of alternative plot was submitted on 26.08.1985, which is time barred, hence rejected by the Committee.”

3. Mr. Dalal, learned counsel appearing on behalf of the petitioner submits that similar issue came before this Court in the case of ***Rattan Singh vs. Union of India and Ors. in W.P.(C) 1967/1987*** of the same village and while consulting the issue, this court held as under:-

“The case of the petitioner is that he was the owner of the land in Village Wazirpur which was acquired for planned development of Delhi in the year 1962. Under the scheme dated 2nd May, 1961 a developed plot was to be allotted to the petitioner, but the same has not been allotted. It is averred that the petitioner had applied for allotment of the plot on 10th June, 1985 in the prescribed form.

According to the petitioner in the case of Dalip and Harcharan Singh, who also belonged to the same Village, alternative plots of land have been allotted. Mr. Watwani informs us that in the case of Harcharan Singh he had applied for alternative plot in 1980, he had compensation in the year 1984 and thereafter in 1987 the Delhi Administration had taken a decision that all those persons whose land had been acquired could apply for alternative plot within three months of receipt of the compensation. It is stated that the respondents gave the benefit of this notification to Harcharan Singh because he had applied before he had obtained the compensation.

It is not disputed that the land of the petitioner as well as Harcharan Singh is in the same Village. Lands of both the persons were acquired by the same notification. The petitioner had applied for the alternative plot in 1986 and though Harcharan Singh had applied in 1980, but allotment to him was made only after 1987. It appears to us that the difference in facts between the cases of the petitioner and Harcharan Singh are not so material as to disentitle the petitioner to the grant of the same relief which has been granted to Harcharan Singh.

The petitioner had received compensation, we are informed in the year 1962, but the fact remains that alternative plots were being allotted even after 1987 to those land owners whose lands had been acquired for the planned development of Delhi. In our opinion, therefore, if the petitioner is otherwise entitled to the allotment of an alternative plot of land, then merely on the ground of any alleged delay on his part he should not be deprived of the same and his case should be considered at par with that of Harcharan Singh.

We, therefore, allow the writ petition and issue a writ of mandamus directing the respondents to consider the petitioner's claim for allotment of an alternative plot of land on its own merits."

4. Learned counsel submits vide the present petition the petitioner seeks parity of the case of **Rattan Singh (supra)** and the rejection by the respondents is arbitrary and unjustifiable.

5. On the other hand, Mr. Siddharth Panda, learned counsel appearing on behalf of the respondent submits that the petitioner very belatedly filed an application for alternative plot, thus, his application has rightly been rejected. The issue of the delay and laches came before this Court in the case of **Sunder Singh (since deceased) through his legal heir vs. UOI and Ors. 2009 (108) DRJ 96 (DB)** wherein held as under:-

*"11. The learned counsel for the respondent has relied upon various judgments to support his contention that the application of the petitioner is time barred and therefore, no relief can be given to him. He has cited the case of **Ramesh Chand Sharma v. Lt. Governor in LPA No.1275/2007** decided on 12th October, 2007, wherein this Court had rejected the writ petition and the application for allotment of alternative land which was made in 1989, however the possession was taken in the year 1977. He also strongly relied upon the case of **Ramanand v. Union of India; AIR 1994 Delhi 29** where it was held that the land owner whose land is acquired does not have the vested*

right to seek allotment of alternative plot. In para 28 of the judgment, it was held as follows :

“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.”

12. In *Chander Bose vs. Union of India & Ors.: 107(2003) DLT 604 : 2003 (71) DRJ 647 (SN)* it was observed that if the delay in making the application for alternative plot is satisfactorily explained, it is not to be rejected. In this regard following observations are made in para 13 and 14:

“13. In the present case, there is initially a delay from 1961 to 1986 of about 25 years in making the application. No reasons have been disclosed for the same. Similarly there is a further delay from the rejection of the application on 10.6.1988 to filing of the writ petition in 1999 of 11 years. This delay is also unexplained. The only averment made is that the petitioner was unaware of the policy. This can hardly be a ground made out for the condonation of delay in either of the two situations.

*14. It is not as if in all cases of delay the application must be rejected. It is always open to an applicant to explain the delay and if the said delay is satisfactorily explained, it will not preclude the case of the petitioner from being considered for allotment. In fact this view has been taken by this Court in C.W.P. No. 4834/1999 **Smt. Vidyawati vs. DDA and Another** decided on*

1.9.2003. However, in the present case there is no valid reason for the delay in making the application.”

*14. Similarly in WP (C) No.6191/2000 in the case of **Shanti Vs. Lt. Governor, NCT of Delhi** decided on 26th March, 2007 where the application for allotment of alternative plot was made after 18 years and the land was acquired vide Award No.1174 dated 31st July, 1961, the Writ Petition was rejected.*

27. No doubt, the scheme of allotment of alternative plots in lieu of acquired land under “Large Scale Acquisition Development and Disposal of Land In Delhi” announced by Govt. of India, Ministry of Home Affairs vide their letter No.37/16/60-Delhi(i) dated 2nd May, 1961 is in force with effect from 2nd May, 1961 but it is not an open ended scheme where a person whose land has been acquired vide Award passed in 1962 can apply for alternative plots any time he wishes. Though in the scheme the date for application for allotment of alternative plot was not mentioned but Delhi Administration has issued public notices from time to time where it was specifically made clear that persons whose lands were acquired between the period from 1st January, 1961 and 15th November, 1963 has to apply for alternative plot before 15th December, 1963. But in the present case Notification under Section 4 was issued on 13th November, 1958 and the Award was passed on 14th March, 1962.

28. We hold that the application under the above said scheme is time barred and the petitioner was guilty of laches and undue delay. The Delhi Administration introduced scheme of alternative plot to provide better living to the person who is in genuine and urgent need of proper accommodation. The petitioner has applied in 1986 for alternative plot, however, her land was acquired in 1959. This clearly indicates that the petitioner is not in need of the land, otherwise he would not have applied after so many years. In view of our aforesaid discussion on the ground of delay and laches, we find no merit in the writ petition. The same is hereby dismissed. No costs.”

6. Mr. Panda submits the present case is having similar facts as were of the case of *Sunder Singh (supra)*. This Court while citing the different judgments of this Court and Supreme Court came to the conclusion that if there is delay and latches in filing the application for allotment of alternative plot, that cannot be entertained, the dismissal for delay and latches would be justified.

7. I have heard learned counsel for the parties.

8. On perusal of Annexure P-4, check memo was prepared by the respondent for recommendation an alternative plot in lieu of acquired land under the scheme of “Large Scale Acquisition Development and Disposal of land” in Delhi for planned development of Delhi.

9. On perusal of Annexure P-5, which is at page 45, the information was sought by the respondent and thereafter till 2008 the matter was under consideration with respondent for considering the application of the petitioner for alternative plot. If the application was filed belatedly, then the respondents should have rejected at that very stage.

10. It is trite, if the delay and latches has not been properly explained that cannot be condoned. In the case in hand, the respondent continued to seek clarifications from the petitioner to complete the documents required for consideration of the application. Thus, the respondents created legitimate expectation. Moreover, the present case is filed on parity of the case of *Rattan Singh (supra)*. In said case, the compensation was received in the Year 1962 and the petitioner therein made an application for alternative plot in the Year 1985. In the present case also, the compensation was received in the Year 1962 and application was filed in the Year 1985 and more

particularly the issue in question is of the same village as of ***Rattan Singh (supra)***.

11. Keeping in view the facts of the present case as similar to ***Rattan Singh (supra)***, I am of the considered opinion that let respondent decide the application of the petitioner if the petitioner is otherwise entitled to the allotment of alternative plot of land within three months from today and the decision taken by the respondent shall be communicated to the petitioner within one week from the date of the decision.

12. Needless to state that if the petitioner is still aggrieved with the decision of the respondent, he may approach the appropriate forum.

13. In view of the above facts and settled law, the petition is allowed with no order as to costs.

SURESH KAIT, J

SEPTEMBER 03, 2014

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