

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

% *Date of Decision: 08 December, 2015*

+ LPA 190/2015 & CM No.6083/2015, CM No.6084/2015 &
CM No.6086/2015

GOVERNMENT OF NCT OF
DELHI THR SECRETARY

..... Appellant

Versus

POONAM GUPTA

..... Respondent

+ LPA 191/2015 & CM No.6096/2015, CM No.6097/2015 &
CM No.6099/2015

GOVERNMENT OF NCT OF
DELHI THR SECRETARY
(LAND & BUILDING DEPARTMENT)

..... Appellant

Versus

SUNDER PAL

..... Respondent

+ LPA 193/2015 & CM No.6108/2015, CM No.6109/2015 &
CM No.6111/2015

GOVERNMENT OF NCT OF
DELHI THR SECRETARY
(LAND & BUILDING DEPARTMENT)

..... Appellant

Versus

SURENDER SINGH

..... Respondent

+ LPA 195/2015 & CM No.6127/2015, CM No.6128/2015 &
CM No.6130/2015

GOVERNMENT OF NCT OF
DELHI THR SECRETARY
(LAND & BUILDING DEPARTMENT)

..... Appellant

Versus

AJIT SINGH

..... Respondent

Counsel for the appellant: Mr.Sanjay Poddar, Sr. Advocate with
Mr.Yeeshu Jain and Ms.Jyoti Tyagi, Advocates for the appellants.

Counsel for the respondent: Mr.Vineet Mehta and Mr.Ankur Gupta,
Advocates in LPA No.190/2015.

Mr.N.S. Dalal and Mr. Daves, Advocates in LPA No.191/2015.

Mr.B.S.Maan, Mr.Vishal Maan, Mrs.Smita Maan and Mr.Paritosh
Tomar, Advocates in LPA No.193/2015 & LPA No.195/2015.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

COMMON JUDGMENT

: **Ms.G.ROHINI, CHIEF JUSTICE**

1. Government of NCT of Delhi is the appellant in these appeals preferred against the orders in W.P.(C) No.1368/2014, W.P.(C) No.7123/2013, W.P.(C) No.3579/2014 and W.P.(C) No.2110/2014 respectively.

2. The common question that arises for consideration is whether rejection of the applications of the writ petitioners for allotment of alternative plots

under the Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961 merely on the ground of delay in making the applications is sustainable.

3. The Government of India, Ministry of Home Affairs formulated a scheme called 'Large Scale Acquisition, Development and Disposal of Land in Delhi' on 02.05.1961 with the object of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi. The said scheme is being implemented by the GNCTD, Department of Land & Building by inviting applications for grant of alternative plots in lieu of acquired land through press advertisements issued from time to time. The alternative plots are allotted by the Delhi Development Authority on the recommendation of the Recommendation Committee constituted by the Department of Land and Building (Task Force), GNCTD.

4. It may be mentioned that the land for planned development of Delhi was acquired under the provisions of the Land Acquisition Act, 1894 and awards were passed fixing the compensation for the land acquired. The compensation so awarded was also received by all the writ petitioners. However, the controversy is with regard to allotment of alternative plot as a rehabilitation measure in lieu of the acquired land in terms of the Scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961 (for short 'the Scheme').

5. All the respondents in the present appeals i.e. the writ petitioners made applications requesting allotment of alternative lands under the said Scheme. The said applications were rejected by the Recommendation Committee on the ground of delay. Aggrieved by the same, writ petitions were filed and all the writ petitions were allowed by the orders under appeal setting aside the orders of the Recommendation Committee and directing to re-consider the applications on merits. The said orders are under challenge in the present appeals contending *inter alia* that the scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961 not being an open-ended scheme where a person whose land has been acquired can apply for alternative plot at any time of his choice, the applications were rightly rejected by the Recommendation Committee and the same warrants no interference by this court in exercise of writ jurisdiction.

6. We have heard the learned counsel for both the parties.

7. It is not in dispute that no limitation as such is prescribed under the scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961 (for short 'the scheme') for making an application for allotment of alternative plot in lieu of the acquired land. However, in terms of the said scheme, the Department of Land & Building, GNCTD while issuing public notices from time to time inviting applications for grant of alternative plots in lieu of acquired land has been notifying the time within which the persons whose land has been acquired may apply for allotment of alternative plot. So

far as the cases on hand are concerned, such public notice was issued on 14.09.1987 which reads as under:

“DELHI ADMINISTRATION : DELHI
LAND & BUILDING DEPARTMENT
VIKAS BHAWAN, NEW DELHI

NOTICE

For the early disposal of the application for allotment of alternative plot, it has been decided that those persons whose land has been acquired, they may apply their application form within three months from the date of receipt of compensation. This time limit shall be strictly followed by the department and the application received after the expiry of date from receipt of compensation shall not be entertained. The Secretary (L&B) has discretion to extend the period of three months in special circumstances therefore those agriculturists whose land has been acquired by the Administration shall apply in the prescribed time limit.

Secretary
(Land & Building)”

8. The material available on record shows that the writ petitioners/appellants herein made the applications for alternative land on the following dates:

- (i) W.P.(C) No.1368/2014 filed by Poonam Gupta (respondent in LPA No.190/2015):

The compensation was received on 07.02.1992 and the application was made for alternative plot on 28.05.1992.

- (ii) W.P.(C) No.7123/2013 filed by Sunder Pal (respondent in LPA No.191/2015):

The compensation was received on 30.01.1990 and the application was made for alternative plot on 20.07.1990.

- (iii) W.P.(C) No.3579/2014 filed by Surender Singh (respondent in LPA 193/2015):

The compensation was received on 27.01.1986 and the application was made for alternative plot on 22.06.1987.

- (iv) W.P.(C) No.2110/2014 filed by Ajit Singh (respondent in LPA 195/2015):

The compensation was received on 10.01.1986, 10.04.1986 & 22.06.1987 and the application was made for alternative plot on 14.01.1988.

9. The applications of the writ petitioners were rejected by the Recommendation Committee as time barred and aggrieved by the same, the writ petitions were filed.

10. The learned Single Judge allowed the writ petitions and set aside the orders of the Recommendation Committee relying upon the decision of this Court in W.P.(C) No.16425/2004 dated 28.03.2007 titled *Simla Devi v. Secretary and Ors.* in which it was held:

“5. This Court is of the view that the reason adduced by the respondent for not considering petitioner’s application for allotment of an alternate plot is not

tenable. Even earlier this Court had passed an order on 20.10.2003 directing the respondent to consider the petitioner's application. Pursuant thereto the respondent rejected the said representation by the impugned order only on the ground that it was "time barred". The so-called public notice is neither a statutory notice nor is a gazetted notice which is presumed to have been known by everyone. On the contrary the notice was published, if at all, in the newspapers only once in 1993. In the circumstances, to contend that someone in 1997 applying for allotment of alternative land should be presumed to know the time limit that is stipulated in a notice printed in the newspaper four years earlier is being unrealistic and impractical. There is nothing so immutable about the time limit set in the notice that the respondent should be precluded from considering an application which is delayed by about four months. Since there is a time limit set by the respondents themselves, surely in deserving cases like the present, where the applicant cannot be presumed to know of the time limit, such a delay ought to have been condoned. On the contrary the refusal to condone the delay would result in injustice."

11. The learned Single Judge further directed that the applications of the petitioners shall be considered on merits and if they are found eligible for allotment of alternative plot, the same shall be allotted in their favour.

12. Assailing the said orders, it is contended before us by Sh.Sanjay Poddar, the learned Senior Counsel appearing for the appellant/Govt. of NCT of Delhi that the orders under appeal had virtually made the public notice redundant and also made the Scheme open ended. Placing reliance upon the decision of the Division Bench in ***Govt. of NCTD vs. Smt.Vidyawati & Ors.*** (WA No.154 of

2004 dated 22.12.2005), it is vehemently contended by the learned Senior Counsel that the learned Single Judge ought not to have directed to consider the applications on merits ignoring the fact that no reason has been given in any of the writ petitioners for the delay in applying for alternative plots. In *Govt. of NCTD vs. Smt. Vidyawati & Ors.(supra)*, it was held:

“10. The policy announced by the Appellant was not an open ended one in the sense that an application could be made at any point of time. In any case, there is nothing to show that the application could be made decades after the announcement of the policy.

11. Learned Counsel for the Respondent relied upon a public notice that was issued in the newspapers inviting such applications on or before 30th April, 1989. We have gone through this public notice and find that it relates to land acquisition "finalized" between the period 16th November, 1963 and 31st December, 1988. The last date for making an application under the public notice was 30th April, 1989. Admittedly, the respondent made an application only in October, 1996, that is, more than seven years after the issuance of the public notice.

12. The respondent has given absolutely no reason for the inordinate delay in applying for an alternative plot under the policy or even under the public notice. In view of the undue and unexplained delay and laches, the writ petition ought to have been dismissed by the learned Single Judge.”

13. The learned Senior Counsel for the appellant has also relied upon the decision of another Division Bench in *Shri Sunder Singh vs. Shri Rajiv Sehrawat* (W.P.(C) 16 of 1991 dated 19.12.2008) wherein it was held:

“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 latches, we find no merit in the writ petition. The same is hereby dismissed. No costs.”

14. Reliance has also been placed upon a recent decision in ***Smt. Ramwati & Ors. v. Government of NCT of Delhi***, **2014 (7) AD (Delhi) 349** wherein the Division Bench, to which one of us (Chief Justice) is a member, declined to condone the delay observing that the inordinate delay is clearly indicative of the writ petitioners being not in need of such a plot and the writ petitions have been filed by way of a wager.

15. On the other hand, the learned counsels for the respondents/writ petitioners relied upon the decision in ***Simla Devi*** (supra) which was followed by the learned Single Judge while setting aside the orders of the Recommendation Committee and directing to consider the applications for allotment of alternative plots on merits. It is also pointed out by the learned counsels for the respondents that though the Government of NCTD preferred LPA No.1209/2007 against the order of the learned Single Judge in ***Simla Devi*** (supra), the same was disposed of by the Division Bench holding that the delay of about four months was not such as to defeat the rights of the petitioner therein. The learned counsels for the respondents/writ petitioners has also relied upon the decision of another Division Bench of this court in **W.P.(C) No.2151/1993** dated 22.04.2008 titled ***Jai Singh Kanwar v. Union of India & Others*** in which a similar view has been expressed. Against the said order,

though the Delhi Development Authority preferred Civil Appeal No.8289/2010 and the same was allowed by judgment dated 22.04.2008, as we could see, it is not on the ground of delay but on the ground of eligibility of the writ petitioner therein under the Scheme.

16. It is relevant to note that a Full Bench of this Court in ***Ramanand v. Union of India***, **AIR 1994 Del 29** having considered the question whether a person whose lands had been acquired under the Scheme in question had a vested right to the allotment of an alternative plot, held:

“28. As a result of the above discussions, 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.”

17. In ***Chander Bose v. Union of India & Ors.***, **107 (2003) DLT 604**, while holding that if the delay in making the application for alternative plot is satisfactorily explained it is not to be rejected, it was observed:

“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 v. DDA and Anr. decided on 1.9.2003.

.....”

18. In the light of the legal position noticed above, we are of the view that the time limit set in the Public Notice cannot be held to be final and conclusive so as to preclude the persons whose lands are acquired from being considered for allotment of the alternative land under the Scheme. The long delay in making the application under the Scheme, no doubt, is a factor to draw an inference that there is no actual need of the alternative plot, however, it cannot be held that all the applications which are made beyond the period prescribed in the Public Notice shall be rejected as barred by limitation. As pointed out in *Simla Devi vs. Secretary and Others* (supra), the Scheme did not provide for any limitation as such, but certain time limit has been stipulated only in the Public Notice issued by the concerned department. It appears to us that the object of stipulation of such time limit is not to destroy the rights of the parties but the same is meant to see that the parties are vigilant in enforcing the benefit provided under the Scheme and that they do not resort to dilatory tactics. Therefore, it is always a question of discretion of the Recommendation Committee which has to be exercised on a consideration of all the relevant facts including the diligence and bona fides of the party making the application for alternative land under the Scheme.

19. Hence, in our considered opinion, it is essential for the Recommendation Committee to consider the applications for alternative land even if they are

made beyond the period specified in the public notice and the applications can be rejected as time barred only where it is found that the delay is not satisfactorily explained.

20. Coming to the facts of the case on hand, the Public Notice dated 14.09.1987 itself states that the Secretary (L&B) has discretion to extend the period of three months in special circumstances. It is no doubt true that the writ petitioners/respondents herein could not make the applications within the stipulated period of three months from the date of receipt of compensation, however, as could be seen from the dates mentioned in Para 8 (supra) the delay in the cases on hand ranges between 21 days to four months which cannot be held to be inordinate delay so as to defeat the rights of the petitioners. Moreover, the applications of the petitioners have been kept pending for a long time of more than 20 years and finally it was decided by the Recommendation Committee to reject the applications as time barred without even considering the facts and circumstances explained by the applicants for such delay. Be it noted that all the writ petitioners were asked to explain the delay and they had explained the same furnishing the supporting documents to substantiate their plea. Since the Recommendation Committee failed to consider the same, the learned Single Judge had rightly found fault with the approach adopted by the Committee and to avoid any further delay thought it fit to direct consideration of the applications of the writ petitioners on merits. We do not, therefore, find any justifiable reason to interfere with the relief granted by the learned Single

Judge in exercise of the discretionary powers vested under Article 226 of the Constitution of India.

21. The orders under appeal, according to us, do not suffer from any patent error of fact or law. Therefore, the interference by us is not warranted on any ground whatsoever.

22. All the appeals are accordingly dismissed. No costs.

CHIEF JUSTICE

JAYANT NATH, J

DECEMBER 08, 2015

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