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

+ W.P.(C) No. 817/2013 & CM No.31089/2015 (of the petitioner for directions).

AMAR BHARDWAJ

..... Petitioner

Through: Mr. Vikas B. Pakhiddey, Adv.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORS

..... Respondents

Through: Mr. Rakesh Mittal, Adv. for R-2 with
Mr. Sanjay Kumar, Legal Officer.
Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.01.2016

1. The petition seeks a mandamus to the respondent no.1 Government of National Capital Territory of Delhi (GNCTD), respondent no.2 Delhi Metro Rail Corporation Limited (DMRC) and Land Acquisition Collector (LAC) (West) to allot an alternative shop in lieu of Shop No.3, Main Bus Stand, Rohtak Road near JJ Colony, Camp No.2, Nangloi, New Delhi – 110 041 which the petitioner claims was in his tenancy and which the petitioner claims was demolished in pursuance to Notification under Section 4(1) and 5A of Land Acquisition Act, 1894 for the purposes of the Delhi Metro Rail Project.

2. The petition came up first before this Court on 12th February, 2013 when though this Court noted that the petitioner had not placed anything before this Court to show his entitlement but notice of the petition was issued. A counter affidavit has been filed by the respondent no.1 GNCTD

and the respondent no.3 LAC and in which it is *inter alia* stated that in the Joint Survey Report dated 13th July, 2006 as well as in the Award No.1/DCW/2008-09 of Village Nangloi Jat, Delhi in pursuance to the aforesaid acquisition Notification there is no mention of the petitioner. No counter affidavit has been filed by the respondent no.2 DMRC. However the counsel for the respondent no.2 DMRC states that the petition is liable to be dismissed on the grounds of delay, laches and waiver itself inasmuch as the demolition was carried out on 7th March, 2007 and this petition has been filed on 8th February, 2013. It is further pointed out that the first claim also which the petitioner claims to have made for alternative shop was dated 9th October, 2012 i.e. after more than 5½ years of the date when the petitioner claims to have been dispossessed.

3. The petitioner during the pendency of this petition filed CM No.31089/2015 seeking a direction for reservation of a shop for himself. The counsel for the petitioner today also started with the grievance that though this petition is pending disposal for the last two years but has not been disposed of. He has as such been asked to argue the petition.

4. The counsel for the petitioner contends that the respondent no.2 DMRC has a scheme for re-location of the shopkeepers who are dispossessed pursuant to the DMRC project. However upon being asked to show such a scheme under which the petitioner is making a claim, the counsel for the petitioner states that the said scheme has not been filed and seeks an adjournment therefor. On enquiry whether the counsel has personally seen the scheme before filing the petition he fairly admits that he has not seen any such scheme.

5. Division Bench of this Court in *Dewan Singh Vs. Government of NCT of Delhi* AIR 2011 Delhi 76 held that there is no obligation in law on the part of the State to provide equal alternative site; it depends upon the Rules and the Scheme, if framed by the State; in the absence of any Scheme for consideration for allotment, no claim can be put forth.

6. It is thus quite evident that the petition has no legs to stand on.

7. I have enquired from the counsel for the petitioner whether the petitioner had made any claim for compensation under the Land Acquisition Act.

8. The answer is again in the negative.

9. I am of the view that a person who has not made a claim for compensation for acquisition would in any case not be entitled to allotment of alternative accommodation or for re-location even if there were to be any scheme therefor. Only a person who has before the LAC established his claim for compensation in lieu of acquisition can be ordinarily considered for re-location. Reference in this regard can be made to the scheme framed for allotment of residential plots in lieu of acquired land, also framed by the respondent no.1 GNCTD and as per which scheme also it is only the persons who have been paid compensation who are entitled to be considered for allotment of residential plots and to *Dewan Singh* supra.

10. Besides, there is also merit in the contention of the counsel for the respondent no.2 DMRC of the claim of the petitioner even if otherwise tenable, being not maintainable owing to delay, laches and acquiescence. The petition is admittedly filed after six years from the date when the right even if any for rehabilitation/re-location accrued in favour of the petitioner. The petitioner, as aforesaid, for more than 5½ years thereafter did not even

seek any rehabilitation. There is always a measure of urgency in rehabilitation schemes and persons entitled to rehabilitation on account of State action have to act with promptitude and only then can be held entitled to be considered for rehabilitation. Reference can be made to Division Bench judgments in *Ramwati Vs. GNCTD* MANU/DE/2387/2014 and *GNCTD Vs. Jangli Ram* MANU/DE/1927/2015 and to *Leelu Vs. Union of India* MANU/DE/2162/2013.

11. The counsel for the petitioner of course contends that the petitioner, between 7th March, 2007 when he was dispossessed and till 9th October, 2012 when he wrote the first letter, was continuously visiting the office of the respondent no.2 DMRC but on enquiry as to which office the petitioner was visiting states that the petitioner was visiting the office of the respondent no.2 DMRC at Inderlok, New Delhi but is unable to state which officer the petitioner was meeting at the said office. However the petitioner is not found to have stated so in his first communication dated 9th October, 2012 and in the petition also though in para 8 has stated that he approached the CPM, Delhi, Inderlok but has not given any date in this regard and the reference is to only one visit. It is not stated it was immediately before 9th October, 2012.

12. Thus, looked at from whichever aspect, the petitioner has failed to establish any right to the relief claimed in this petition.

13. The petition is dismissed.

I refrain from imposing any costs.

RAJIV SAHAI ENDLAW, J

JANUARY 08, 2016

‘pp’