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

+ LPA 169/2014

SHRI KRISHAN KUMAR SEHRAWAT Appellant
Through Mr.N.S.Dalal and Mr. Devesh Pratap Singh,
Advocates

versus

GOVT. OF NCT OF DELHI AND ANR. Respondents
Through Mr.Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for R-1
Mr.Sanjeev Sabharwal, Standing Counsel
for DDA/R-2

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
05.02.2016

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1. The present appeal is filed seeking to impugn the order of the learned Single Judge dated 05.08.2013 dismissing W.P.(C) 4943/2013 filed by the appellant.
2. The appellant filed the writ petition seeking a writ of mandamus for directing respondent No.1 to recommend the name of the appellant to respondent No.2 for allotment of an alternative plot in lieu of the acquisition of their land under the scheme of Large Scale Acquisition Development and Disposal of Land in Delhi 1961 in terms of the initial application dated 01.01.1987. Other connected reliefs are also sought.
3. The brief facts as stated in the writ petition are that the land of the appellant is said to have been acquired vide Award No.2182 B dated 31.03.1972 and the actual physical possession was also taken by the

appropriate authority.

4. Subsequent to the acquisition of the land, it is stated that the father of the appellant Sh. Umed Singh moved an application for allotment of an alternative plot on 01.01.1987 before respondent No.1. A response was received on 21.03.1989, wherein a clarification was sought in the form of an affidavit as to whether the name of the father of Sh.Umed Singh is Sh.Sita Ram or Sh. Maan Singh. An affidavit is said to have been filed by Sh.Umed Singh clarifying that his father's name is Sh.Maam Singh. It is further stated that Sh.Umed Singh is said to have followed up subsequently in the office of the respondents and every time he was being assured that his case is under process and would take time and the allotment would be done in due course but nothing happened. Sh. Umed Singh filed representations on 17.03.2010 and 30.08.2010. He died on 27.9.2010.

5. Thereafter, the appellant states that he filed an application under RTI Act dated 26.06.2011 seeking a certified copy of the documents of the file pertaining to the allotment of the alternative plot. The matter went up to the Central Information Commission (in short 'CIC') and pursuant to an order passed on 09.01.2012 by the CIC, the documents were received by the appellant regarding the allotment of an alternative plot vide letter dated 15.02.2012. It is stated that the appellant also received minutes of the meeting of the allotment committee where a decision was taken that the recorded owner of the property acquired is Sh. Sita Ram, grandfather of Sh. Umed Singh and he had received the compensation of the land on 24.04.1972. He expired on 13.10.1978 and never applied for an alternative plot during his life time. The decision further states that in the amnesty scheme time upto 30.04.1986 was provided to recorded owners only and not for the legal heirs to make an application for an alternative plot. Sh. Umed

Singh not being the recorded owner, is not entitled to the allotment of an alternative plot. Hence, the allotment committee rejected the claim of Sh. Umed Singh.

6. Hence, the present writ petition is filed contending that the decision of the allotment committee was never communicated to the appellant or to the father of the appellant.

7. Respondent No.1 has filed its counter affidavit before this court. In the counter affidavit it is pointed out that the title of Sh.Umed Singh was itself doubtful. The recorded owner of the acquired land was Sh. Sita Ram, the grandfather of Sh.Umed Singh. An application for allotment of an alternative plot was made by Sh. Umed Singh on 01.01.1987, 9 years after the death of Sh.Sita Ram without disclosing his right, title or interest in the land under reference. Sh.Maana Singh, the grandfather of the appellant (and father of Shri Umed Singh) was survived by three sons. A litigation was pending regarding title of the land against Sh.Umed Singh as on 01.01.1987 when the said Sh.Umed Singh applied for an alternative plot. On this ground itself, Sh.Umed Singh was not entitled to file an application for an alternate plot and the same was liable to be dismissed.

8. It is further stated in the counter affidavit that the land was acquired in 1972 and the compensation was also paid in that year. The application for alternative allotment has been made on 01.01.1987 about 15 years thereafter. Though there was an amnesty scheme upto 30.04.1986, the same was provided for recorded owners only and not for the legal heirs. Hence, as per the amnesty scheme/policy Sh. Umed Singh was not entitled to file an application for allotment of an alternative plot at this stage. Hence, the application filed by Sh.Umed Singh has been rightly rejected.

9. The learned Single Judge in his impugned order noted the judgment of the Supreme Court in **DDA v. Jai Singh Kanwar & Ors.**, Civil Appeal No.8289/2010 decided on 14.09.2011 which held as follows:

“5. We find that the High Court has not addressed the crucial and fundamental issue relating to eligibility. Under the Scheme, only a land loser who did not own a house/residential plot/flat in his own name or in the name of his spouse or dependent relation, and who was not a member of any Co-operative Housing Society was entitled for allotment of plot. The relevant date for this purpose is the date of award, namely, 24.11.1969. Chhajju Singh did not make an application under the said Scheme even though he was alive till 1976. Among his six sons, only one son made an application on 04.12.1985 sixteen years after the award.”

Hence, the impugned order noted relying on the aforesaid judgment that Sh.Umed Singh not being the original owner of the land, would not be entitled to an alternative plot and dismissed the writ petition.

10. On account of various reasons stated below, we see no merits in the present appeal. Firstly, the writ petition is completely silent about the locus of Sh.Umed Singh to make the application. The recorded owner of the acquired land was the grandfather of Sh.Umed Singh, i.e. Sh.Sita Ram. There are other legal heirs to the plot that was acquired. As to how, only Sh.Umed Singh is entitled to make the application for allotment is not explained or stated. He obviously is not entitled to an alternative plot *de hors* the claim of the other legal heirs of Shri Sita Ram the recorded owner.

11. Further, the facts also show that there is an obvious delay of 15 years in moving the application. The amnesty scheme/policy permits only the recorded owner to make an application for allotment of alternative plot. Moreover, the scheme only condoned the time period to apply for an alternative plot for the recorded owner upto 30.04.1986. The application of

Sh.Umed Singh was filed even after this extended period. Hence on the face of it the application filed by the predecessor of the appellant was beyond permissible time.

12. Apart from the above, in our opinion, delay and laches in approaching this court is writ large on the face of the record. The land was acquired in 1972 while the application for alternative allotment was made on 1.1.1987. The present writ petition was filed in 2013 i.e. 26 years thereafter. The only explanation given for this delay is that Shri Umed Singh was following up with the department, but was told that the matter is under process. This explanation cannot be accepted. This is a clear case of unexplained delay and laches.

13. We see no reason to differ with the views taken by the learned Single Judge. The appeal is dismissed.

(CHIEF JUSTICE)

**(JAYANT NATH)
JUDGE**

FEBRUARY 05, 2016

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