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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 128/2016**

Judgment Pronounced on: 08.11.2016

HARBHAJAN KAURAppellant
Through : Mr. Ravindra S. Garia, Advocate.

versus

UNION OF INDIARespondent
Through : Ms. Mrinalini Sen and Ms. Aastha
Jain, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J.

1. The appeal is preferred against the order of the learned Single Judge dated 23.12.2015 in W.P.(C) No. 12271 of 2015. The unsuccessful petitioner is the appellant before us.

2. The said writ petition was filed seeking a mandamus to the Government of India to take appropriate action for realisation of the sum of money deposited by the late husband of the petitioner in his accounts with General Post Office (Round Post Office), Sichin Road, Shanghai, China. On a representation being made to the Chinese authorities, the petitioner was informed vide letter dated 09.10.2003, that the claim for the monies deposited in the said accounts stands abandoned as per the policies of their government.

3. The learned Single Judge dismissed the writ petition by the order under appeal dated 23.12.2015 and held as under:

“7. I am of the view that merely because the Government of India, on a representation being

made, has forwarded the claim of the petitioner to the Embassy of India at China would not create an obligation on the Government of India to take any further steps in the matter. The Government of India cannot raise a dispute with a foreign Government qua the private claim of its citizens.

8. The counsel for the petitioner at this stage also wants it recorded that the monies aforesaid were deposited by the husband of the petitioner while he was in China and was deported from China for being part of Indian National Army.

9. The same, in my view would not make any difference.

10. Not only so, the petition is also highly belated and suffers from delay, laches, acquiescence and waiver.

Dismissed.”

4. We have heard the learned counsel for the parties and perused the material available on record. The husband of the petitioner served in the Indian National Army and deposited his savings in accounts with General Post Office, Shanghai. Thereafter, the petitioner and her husband were deported back to India. After the death of the husband of the petitioner in 1979, the petitioner made a representation to the Government of India only on 18.09.2003 for release of the amounts lying deposited in the said accounts, who in turn forwarded her claim to the Embassy of India at China. Meanwhile, the Shanghai Post Office vide letter dated 09.10.2003 informed the petitioner that her claim stood abandoned for failing to register it within the assigned time after the issuance of the said policy of the Chinese Government. Vide letter dated 10.10.2004, the Embassy of India at Beijing acknowledged the representation made by the petitioner

and informed her that they are looking into the matter. Being aggrieved by no action being taken by the authorities thereafter, the appellant approached this court in 2015.

5. Mr. Ravindra S. Garia, learned counsel for the appellant submitted that the Government of India is under an obligation to protect and ensure aid, advise and help to the emigrants under the Emigration Act, 1983. He further submitted that it is an established principle of international law that any property, particularly belonging to aliens, cannot be confiscated without just compensation and the fact that they suffered confiscation only because they were in service of the Indian National Army.

6. Having regard to the facts of the present case, we find no infirmity with the order of the learned Single Judge under appeal. The petitioner was unable to provide us with any specific obligation under which the Government of India has to pursue private claims of the petitioner against a foreign government. The Government of India is under no obligation to raise a dispute with a foreign government in relation to the private claim of the petitioner by merely acknowledging the fact of a representation made by the petitioner.

7. We are in consonance with the opinion of the learned Single Judge that the said writ petition suffered from delay, laches, acquiescence and waiver. The last letter received by the petitioner from the Ministry of External Affairs dates back to 30.03.2005 whereas, the appellant approached this court only in 2015. Therefore, the same cannot be entertained.

8. We, therefore, find no reason to interfere with the order under appeal and the appeal is accordingly dismissed.

SANGITA DHINGRA SEHGAL, J

CHIEF JUSTICE

NOVEMBER 08, 2016

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