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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1899/2015**
AJIT KUMAR MAHALWAL AND ORS.

..... Petitioners

Through Mr.D.K.Devesh, Advocate.

versus

LAND AND BUILDING DEPARTMENT AND ANR.

..... Respondents

Through Mr.Puneet Aggarwal and Ms.Dalveer
Kaur, Advocate for R-1.
Ms.Manika Tripathy Pandey,
Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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27.07.2016

Petitioner seeks allotment of an alternate plot in lieu of agricultural land which according to him was acquired in the year 1989.

Contention of the petitioner as is clear from the averments made in the petition and coupled with the documents on record is that the land of the father of the petitioner was acquired in the year 1961. Possession of the same was taken over in that year. Compensation was also received by the father of the petitioner. The father of the petitioner expired on 07.11.2004. During his own lifetime i.e. on 25.4.1989 he had written a letter to the Department/respondent no.1 seeking allotment of an alternate plot. Submission is that pursuant to the request the Department had also sought for certain documents

from the petitioner which was vide their communication dated 13.4.1993 which was duly replied on 30.4.1994. The father of the petitioner had again addressed a letter in the year 2001 to the Department. The petitioner on 06.10.2005 had made a request to the Department asking them about the fate of his case. This letter (annexure P8 finds mention in page 57 of the paper book) shows that admittedly after 2005 up to the filing of the present writ petition (which was in February, 2015) no action has been taken by the petitioner (who is the legal representative of the original allottee) in this entire one decade. Even on a specific query put to the learned counsel for the petitioner he admits that he has not approached the Department to find out the fate of his case. His submission is that he has written a letter to the Public Grievance Commission and requesting them to look into the matter. This was on 15.5.2013; which was again after a lapse of 8 years. The Public Grievance Commissioner (as per the list of dates) on 12.9.2013 had informed the petitioner that his case stands closed. The present writ petition was accordingly filed.

Learned counsel for the respondent has filed a counter affidavit. His submission is that after a lapse of 22 years (as the closure letter in this case was issued to the petitioner as way back as on 02.5.1993 informing him that his case cannot be considered for re-allotment) the petitioner not having addressed his grievance till the filing of the present writ petition (2015) deserves no sympathy. Submission being that the object of the scheme of rehabilitation is not to open gates for those persons who does not deserve an alternate plot. The

object of the scheme was to provide alternate accommodation/house/plot to those persons who were totally homeless and have no land to live on.

This Court is in agreement with the submission of the learned counsel for the respondent. The list of dates as enumerated clearly show that the father of the petitioner had applied for an alternative plot during his lifetime which was as way back as on 25.4.1989. Certain documents were called for by the Department from the father of the petitioner on 13.4.1993. The same were supplied to the Department on 30.4.1994. The case of the father of the petitioner was however rejected on 25.5.1993. Even as per the case of the petitioner, he tried to find out the fate of his father's request only on 06.10.2005. In this entire intervening period of 12 years it cannot be imagined that the petitioner and his family were homeless or landless or without a home or that they did not have any shelter. After 06.10.2005, the petitioner approached this Court one decade later i.e. in the year 2015 by filing the present petition. The body of the petition clearly shows that in this entire 10 year period no action was taken by the petitioner. The case of such a person cannot be considered sympathetically. He had slept over his rights if any. It is a clear case where the presumption is that the petitioner was not in the need of any alternate plot or accommodation and thus the object of the scheme which was to provide succour to those persons who were completely homeless or landless is not met with.

A Division Bench of this Court in Ramawati vs. Government of NCT of Delhi MANU/DE/2387/2014 on the aspect of delay and

laches in scheme dealing with allotment of alternative plots had noted herein as under:

“An application for alternative land in lieu of acquired land, who sleeps over his/her right cannot wake up as and when he/she desires and claim allotment of alternative land. The Scheme of allotment of alternative residential plot in lieu of acquired land is rehabilitative in nature and considering that such allotment of alternative land is in lieu of acquired land, there is an element of urgency therein. Once an applicant is found to have not been diligent in pursuing such an application and/or is found to have slept over the matter, it has but to be presumed that he/she is not interested and not in need of any welfare rehabilitative measure. It cannot be lost sight of that the full bench of this Court in Ramanand vs. Union of India AIR 1994 Delhi 29 has held that the Scheme does not vest any right in anyone to alternative land and that the only right under the Scheme is a right to be considered; it is for the applicant to take steps for his/her case to be considered and if does not take such steps, cannot claim that any right has been violated.”

This Court is of the view that the dicta laid down by the Division Bench of this Court in the aforementioned judgment would be applicable to the facts in hand. The case of the petitioner is on better footing. He deserves no sympathy.

This petition stands dismissed.

INDERMEET KAUR, J

JULY 27, 2016

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