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

+ **W.P.(C) 5762/2015**

KRISHAN SOLANKI & ORS

..... Petitioners

Through Mr. S.K.Rout, Mr. Pawan Kumar and
Mr. Rahul Verma, Advocates

versus

**THE SECRETARY, (LAND & BUILDING) DEPARTMENT,
GNCT OF DELHI & ANR**

..... Respondents

Through Mr. B. Mahapatra, Advocate for R-1

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% 27.07.2016

Petitioner is aggrieved by the fact that his plea for an alternate plot had been rejected. Record discloses that the land of the father of the petitioner i.e. Shri Zile Singh was acquired vide award No. 164/1986-87 on 27.01.1984. He had received compensation on 29.10.1986. He had filed an application for an alternate plot on 30.12.1986. This was done by Zile Singh during his life time. Zile Singh died in the year 2010 i.e. 10.04.2010. In this intervening period certain communications were sent to Zile Singh but they were addressed to one Shri Jaila Singh s/o Shri Deep Chand whereas Zile Singh father was Shri Roop Chand. These letters had incorrect particulars. On 02.02.1994 the Department had allegedly sent a letter

to Zile Singh son of Deep Chand informing him that his case for alternate plot was considered and stands closed. The vehement submission of the petitioner is that this letter had given the name of the father of the petitioner as Deep Chand; correct particulars are that Zile Singh is the son of Roop Chand;

This Court notes that it is not the case of the petitioner is that this letter was not addressed at the correct address. It is also not denied by the petitioner that this letter was sent by registered AD post on this correct address of Zile Singh. It is presumed that only after this letter was opened by Zile Singh that he must have learnt about these incorrect particulars. This would not take away the fact that the letter had infact been received by Zile Singh. This presumption is endorsed in view of the fact that this letter was admittedly sent by registered AD post on the correct address of Zile Singh. The presumption in law under section 114 (g) of the Evidence Act comes to the aid of the respondent.

That apart this Court notes that after the application has been made by Zile Sing for an alternate plot which was on 30.12.1986 the first communication written by Zile Singh was on 27.07.1998 seeking a reopening of his case. The very fact that this letter was written in 1998 evidences that Zile Singh was aware of the fact that his case was closed on 02.02.1994. After 1998 there was another letter which Zile Singh had written in September, 2002 followed by another letter in September, 2005 to the Department. This was followed by another letter written in August 2006. Thereafter, after the death of Zile Singh which was on 10.04.2010 the present petitioner did not care about the

matter as in the entire body of the petition there is nothing to evidence that the Act had taken any action to find out about the fate of the application made by his father way back in 1986 for the grant of an alternate plot.

This Court notes that the policy for which this scheme of allotment of an alternate plot was floated was to give succour to those persons whose lands were acquired in entirety and they had no house or home to seek shelter. This scheme was definitely not for commercial purpose or to allow persons to take alternate plots and sell them in open market.

In the background of the dates which has emanated, this Court is of the view that it cannot be imagined that after 1986 (when an application for alternate plot was made by Zile Singh) upto the year 2010 (date of death of Zile Singh) Zile Singh remained homeless for such a long period of time. Zile Singh in his life time had in fact not bothered to find out about the fate of his application (filed in December 86 upto 1998) i.e. for the next 12 years and this is clear from the averments in this writ petition. After such a long delay of 12 years he made his first application for reopening of his case in the year 1998. The submission of the petitioner that his father had not received letters as the particulars of his father Zile Singh show that he is the son of Roop Chand and the letters were addressed to one Jaila Singh son of Deep Chand has already been negated.

In view of the admitted position that these letters were sent by registered AD post at the correct address of Zile Singh and more over the subsequent application of the petitioner that he had learnt about

the fate of the case and thereafter he had addressed communication in July 1998 to the Department seeking reopening of his case shows that the letter dated 02.02.1994 had infact been received by the father of the petitioner. The father of the petitioner had expired on 10.04.2010 and again up to February, 2015 i.e. (when this petition was filed) no action was taken by the petitioner.

In this background, this Court is of the view that the prayer sought for by the petitioner deserves no sympathy. The Judgment of **Government of NCT of Delhi versus Poonam Gupta and Ors, 225 (2015) DLT 533(DB)** relied upon by the petitioner does not come to his aid. In that case the Court had held that where the delay is satisfactorily explained the delay aspect may be reconsidered; in that case there was a delay of between 21 days to 4 months.

In **Government of NCT of Delhi Vs. Jangli Ram & Ors.** in a **LPA 112/2015** the Bench of this Court relying upon the judgement **Ramwati Vs. Government of NCT of Delhi MANU/DE/2387/2014** in this context had noted as under:

“An applicant 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.”

Case of the petitioner stands on no better footing.

Petition is accordingly dismissed.

INDERMEET KAUR, J

JULY 27, 2016

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