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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ LPA 279/2016 & CMs 16489 – 16490 /2016
AJIT KUMAR BISWAS

..... Appellant

Through MsTasneem Ahmad and Ms Subhi Khare,
Adv.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through Mr Rajiv Bansal, Mr Shlok Chandra, Ms
Arpita and Ms Tanya Jolly, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% 01.08.2016

The impugned order dated 11.03.2016 dismisses the W.P.(C) No.1779/2013 filed by the appellant – Ajit Kumar Biswas on the ground of delay and laches. holding that the writ petition should be dismissed because the appellant had delayed approaching the Court for over 20 years.

The appellant was allotted shop by Delhi Development Authority (DDA) in Chitranjan Park, New Delhi vide demand-cum-allotment letter 24.12.1985. The appellant did not pay the demand of Rs.2,46,955, as required. It appears that there were some disputes raised whether the appellant had received the said allotment letter. Subsequently, another demand-cum-allotment letter dated 13.06.1988 was issued demanding a sum of Rs.1,27,205/- followed by another letter dated 22.09.1988 requiring the appellant to deposit the total amount of Rs.2,46,955/- within a period of 30 days. It appears that the appellant felt that the demand was exorbitant and had raised objections by writing a letter to the DDA. He had also sought revision of the said price. By a letter dated 22.11.1990, the allotment in favour of the appellant was cancelled by the DDA.

The appellant did not challenge the order dated 22.11.1990 in any legal proceedings.

The appellant on 25.01.2008 on his own deposited the amount of Rs.2,46,955 in one of the banks authorized by the DDA for deposit of payment. Thereafter, the appellant

started approaching DDA by way of representation dated 30.04.2009. The DDA vide letter dated 30.04.2009 rejected the request of the appellant that there was no system of making out of turn allotment. The appellant also approached the Lt. Governor of Delhi, Chairman requesting for a decision as he has already deposited the entire sum of Rs.2,46,955/-. This was followed by some representations to the DDA and the Vice-Chairman, DDA. Thereafter, the appellant had written letter dated 06.12.2012 seeking response to his representation during public hearing which was disallowed.

The present writ petition out of which the impugned order arises was filed on 16.03.2014.

Learned counsel for the appellant submits that the DDA by their letter dated 05.04.2013 has informed the appellant that they cannot restore the allotment of shop at Chitranjan Park, New Delhi. The appellant has accordingly filed copy of the bank account number for refund of the amount of Rs.2,46,955/-. It is accordingly asserted that fresh cause of action has accrued and delay and laches would not come in the way. It is also submitted that initially the allotment was made to the appellant as while on election duty in Mizoram, he has suffered serious accident and was hospitalized for five years and had to undergo surgery. It is pointed out that the Medical Board, AIIMS, has issued a disability certificate dated 02.11.1992.

In the present case, we notice that the allotment in question was made in the year 1985 followed by a letter of DDA dated 22.09.1988. The allotment was cancelled for non-payment on 22.11.1990. The writ petition, as noticed above, was filed in the year 2013 after the appellant of his own *suo moto* had deposited a sum of Rs.2,46,955/- in the year 2008. In these circumstances, delay and laches are quite apparent. The appellant has approached the Court after nearly 18 years of the cancellation and then this Court after 23 years. The letter dated 05.04.2013 was issued by the DDA in response to the repeated queries made by the appellant and also the fact that the appellant of his own deposited the amount of Rs.2,46,955/-. The letter would not, in our opinion, confer fresh cause of action on otherwise a stale claim.

Learned counsel for the appellant has submitted that the impugned judgment also observes that the appellant suffered 25% disability and in this connection has drawn our

attention to the disability certificate dated 02.11.1992. We would observe that the aforesaid observations in the impugned order would not stand in the way of the appellant if he is otherwise entitled to benefit under the People Disability () Protection of Rights and Full Participation) Act, 1995. There appears to be some dispute whether or not the appellant would be entitled to said benefit. We clarify that we had not affirmed or given any opinion on the said aspect. We also clarify that in case the appellant is entitled to benefit under the said Scheme of DDA, it would be open to the appellant to claim the said benefit under any scheme framed under the provisions of the aforesaid Act.

The appeal is accordingly disposed of.

SANJIV KHANNA, J

SUNITA GUPTA, J

AUGUST 01, 2016/*rd*