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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4690/2016

DEVENDER

..... Petitioner

Through Mr. Rahul Gupta and Mr Shekhar
Gupta, Advs.

versus

GOVT. OF NCT OF DELHI & ANR

..... Respondents

Through Mr. Kamal Kant Jha, Adv for L & B.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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10.08.2016

The petitioner is aggrieved by the fact that his application seeking allotment of an alternate plot had been rejected vide letter dated 04.02.2014. The reasons for rejection are contained in the letter itself which states that the application for allotment of an alternate plot was submitted much beyond the prescribed period. Submission of the learned counsel for the petitioner is that there is delay of only 7 days and this position being admitted, the case of the petitioner should be considered on merits. The rejection only on the ground of delay is illegal and is liable to be set aside. To support this submission, he has placed reliance upon 2016 III AD (Delhi) 377 Government of NCT of Delhi through Secretary Vs. Poonam Gupta and Others.

Record shows that the land of the petitioner (1/8th share in the total land) measuring 10 bigha and 12 biswas in the revenue estate of village Bijwasan comprised in khasra No. 13/15, 16, 17/2, 24/1 and

25/1 had been acquired vide notification dated 13.12.2000. The possession of the land of the petitioner was taken over on 05.09.2002. an application for alternate plot had been made by the petitioner on 02.12.2003 under the scheme of Large Scale Acquisition. The application was however rejected on 04.02.2014 and the reason has been mentioned therein.

A perusal of this letter shows that the applicant had received compensation of his acquired land on 25.11.2002. The application for alternate plot was made by the petitioner on 02.12.2003. The letter itself shows that the prescribed period for filing an application for allotment of an alternate plot was one year which period as per the case of the respondents expired on 24.11.2003. There was a delay of 7 days in filing the aforementioned application. This application was filed on 02.12.2003.

The submission of the petitioner is that it is the respondent who himself is responsible for such a delayed order having been passed i.e. order having been passed rejecting his application in the year 2014 when admittedly he had applied for an alternate plot in the year 2003.

Noting the above factual matrix, this Court is of the view that the delay being only minimal i.e. 7 days and the case of the petitioner not having been considered on merits, the order is faulty and is required to be set aside. It is accordingly set aside.

A Bench of this Court in W.P. (C) No. 1967-87/2013 Rattan Singh Vs. Union of India had noted that on the question of delay that if the petitioner was otherwise entitled for an alternate plot, on the ground of delay alone he should not be deprived of his right and

especially when the delay is justifiable and explainable.

Noting the factual matrix of the instant case and the fact that the delay is being minimal does not disentitle the petitioner to get his case considered on merits. The impugned order is accordingly set aside.

The case of the petitioner shall be considered on merits in accordance with law.

Petition disposed of.

INDERMEET KAUR, J

AUGUST 10, 2016

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