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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4935/2016

RAJBALA & ORS

..... Petitioners

Through Mr. V.P. Rana, Adv.

Versus

GOVT. OF NCT DELHI & ANR

..... Respondents

Through Mr. Siddharth Dutta, Adv. for R-1.

Ms. Ruchika Rathi, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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02.08.2016

The petitioners by way of this writ petition seek a prayer that the letter of rejection dated 01.10.2014 rejecting their prayer for allotment of an alternate plot be set aside.

Counter affidavit has not been filed inspite of opportunities. On the last date, learned counsel for the respondents had taken time to take instructions. Oral instructions have been obtained and the same have been informed to the Court.

Record shows that the land of the mother of the petitioner namely (Smt. Ram Kaur) had been acquired on 09.09.1999 vide Award No. 8/1999-2000. Compensation had been paid to Smt. Ram Kaur in the year 1998-1999. Ram Kaur died on 30.09.2001. The averments in the writ petition and the list of dates show that after the death of Ram Kaur, the intimation about her death was given to the Department on 02.09.2013. This is the case of the petitioner himself.

Further averments in the petition disclose that on 20.03.2014 a letter was written by the legal representatives of late Smt. Ram Kaur along with documents to the Department substantiating their claim for an alternate allotment. Additional submission being that on 31.03.2014, the respondents issued a letter addressed to Smt. Ram Kaur asking her to submit certain documents; submission being that Smt. Ram Kaur already having expired and this information having come to their knowledge, this letter was clearly sent without any application of mind; moreover it did not reach the legal representatives of the deceased i.e. the petitioners. The application of the petitioner in this background rejecting his prayer for an alternate plot on 01.10.2014 suffers from an infirmity. The case of the petitioner should be reopened.

The instructions of the learned counsel for the petitioners is that the petitioners have not followed up their case for the last more than 12 years; submission of the Department being that this is an admitted fact which is clear from the averments made in the writ petition and as per the policy and the object of the scheme for allotment of alternate plots, the case of the petitioner clearly does not fit within the ambit as it could not be imagined that for the last more than one decade, they had remained without a house or shelter.

This submission made by the learned counsel for the respondents has force. Admittedly the mother of the petitioner had expired on 30.09.2001. She had, during her lifetime, on 22.01.2000 applied for allotment of an alternate plot. After her death, her legal representatives remained silent up to 2013. For the first time on

02.09.2013, the petitioners had written to the Department informing them about the death of their mother.

The whole purpose and object of the scheme of allotment of an alternate plot was to give succour to those persons whose lands were acquired and on this deprivation, they had become homeless or in need a house; such an application had to be followed up in time to avail this legal remedy in the absence of which no relief could be granted to them. This is also the ratio of the Division Bench judgment of a Bench of this Court in 86 (2000) DLT 505 Sundari Bal Vs. Lt. Governor & Others relevant extract of which reads herein as under:-

“When the writ petitioner was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay disentitled the writ petitioner for discretionary relief under Article 226.”

This is a clear where it cannot be imagined that for the last more than 12 years, the legal representatives of deceased Smt. Ram Kaur remained homeless; it could not be imagined that they did not have a shelter for all these years. The purpose and object of the scheme of alternate plots is thus admittedly not met with. Such a long delay without any explanation whatsoever not only reinforces the submission of the respondents but also persuades this Court to hold that the petitioners are not entitled to this discretion as they do not come within the encompass of the object of this policy which at the cost of repetition was to provide succour to landless persons and whose lands had been acquired in entirety. The petitioners having remained silent for such a long period do not deserve any sympathy

from this Court.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 02, 2016

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