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

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LPA 378/2016

Date of decision: 13th July, 2016

SUSHILA PAREEK

..... Appellant

Through Mr. Dilip Singh, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

SANJIV KHANNA, J. (ORAL)

Appellant-Sushila Pareek in this Letters Patent Appeal impugns judgment dated 22nd May, 2015, whereby a single Judge has dismissed W.P.(C) No.4189/2013 filed by her.

2. The present appeal is belated by 333 days and accordingly, an application under Section 5 of the Limitation Act, 1963 has been filed. However, before issuing notice on the said application, we have deemed it appropriate to examine the grounds of appeal.

3. Late Pokhar Mal Pareek, husband of the appellant had applied and was registered for allotment of a plot under Rohini Residential Scheme-1981.

Late Pokhar Mal Pareek expired on 10th October, 1988, but this fact was not intimated to the Delhi Development Authority and the registration was not transferred/substituted. In the draw of lots, Plot No.87, Pocket-21, Sector-24, Rohini was allotted to him, and letter dated 20th October, 1993 was issued in the registrant's name for making payment of Rs.94,827.60/-. This payment was not made and accordingly, the allotment and registration of late Pokhar Mal Pareek were cancelled.

4. By letter dated 1st August, 1997, the appellant as a legal heir wrote to the Delhi Development Authority seeking restoration of the said allotment. The said letter states that the appellant had visited the office of the Delhi Development Authority and had learnt that the allotment of plot in the name of late Pokhar Mal Pareek stands cancelled due to non-payment. Along with this letter, for the first time, the appellant had enclosed death certificate of her husband, who had expired about 9 years back. She had also filed no objection certificate from her mother-in-law and brother-in-law.

5. The appellant thereafter kept quiet and wrote the next letter on 3rd May, 2001, enclosing relinquishment deed, affidavits, indemnity bond, photocopy of ration card, three specimen signature and three passport size photographs. Apparently, the appellant had enquired and learnt about the

legal requirements and formalities to be completed.

6. The appellant once again kept quiet for 3 years before sending the legal notice dated 27th March, 2004 to the Delhi Development Authority. Interestingly, the legal notice refers to the draw of lots held on 27th March, 1993 and that her husband, late Pokhar Mal Pareek was allotted Plot No.87, Pocket-21, Sector-24, Rohini admeasuring 60 square meters in Rohini Residential Scheme for a premium of Rs. 94,827.60. Thus, the appellant was fully aware and conscious of the amount demanded from her late husband Pokhar Mal Pareek and also the fact that the draw of lots was held on 27th March, 1993. These details could have been stated only if the appellant had seen the file or was made aware of the contents of the file.

7. The appellant had filed a writ petition on or about 22nd April, 2013. In the meanwhile, it appears that the original file of late Pokhar Mal Pareek went missing and became untraceable. The respondent, the Delhi Development Authority, was handicapped and had filed a trimmed and limited affidavit.

8. The writ petition has been dismissed by the impugned order dated 22nd May, 2015 on the ground of gross negligence and inordinate delay and laches. We have also examined the factual position. From 10th October,

1988 till 1st August, 1997, the Delhi Development Authority was not informed about the death of Pokhar Mal Pareek. The first letter was written after 9 years in 1997. The appellant was aware and conscious of the fact that her late husband was allotted Plot No.87, Pocket-21, Sector-24, Rohini admeasuring 60 square meters in the draw of lots held on 27th March, 1993 for a premium of Rs. 94,827.60. It is accepted in letter dated 1st August, 1997 that the allotment was cancelled due to non-payment. Then, there was hiatus of more than 4 years, when documents were submitted vide letter dated 3rd May, 2001. This was followed by the legal notice in March, 2004. The writ petition was filed nine years later in April, 2013 and nearly twenty years after the cancellation. The appellant had been marking time and was inert. She was in no hurry and possibly faced no immediate need and requirement. In the mean time, the land prices have proliferated and escalated. Rohini, which was once a bottom choice, is today a sought after and posh locality. The plots at Rohini enjoy substantial premium over and above the Delhi Development Authority price.

9. Looking at the aforesaid facts, we find that the learned single Judge had rightly dismissed the writ petition on the ground of delay and laches holding that the appellant's claim for allotment of plot in today's date is

unjustified and should not be entertained. At the best, the appellant would be entitled to refund of the amount deposited by her husband with the Delhi Development Authority in accordance with the scheme. It is open to the appellant to make the said request to the Delhi Development Authority and the amount, if any, will be refunded to the appellant along with interest as payable.

10. In these circumstances and with the aforesaid observations, we are not inclined to issue notice on the application for condonation of delay. Accordingly, the said application and the appeal are dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

JULY 13, 2016
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