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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7848/2016

BANSI LAL

..... Petitioner

Through Mr. Manoj Tomar, Adv.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

..... Respondents

Through Ms.Mansi Gupta, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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23.11.2016

The petitioner is aggrieved by the act of the respondents. His case is that he was running a dairy having 13 cattles at T-8, Water Tank, Mansarovar Garden, Delhi. This was in the year 2000.

On 08.12.2005, the petitioner had booked a dairy plot in Ghogha Dairy Project. He had paid 50% of the amount (Rs. 75,000/-) vide receipt dated 08.12.2005; An allotment letter was issued to him on 19.12.2005 for allotment of a plot measuring 60 square meters. The petitioner used to purchase foods for his buffaloes from the animal food shop i.e. R.K. Enterprises and receipt dated 09.11.2006 substantiates his submission. In the year 2007, because of the bar imposed by the Court for maintenance of dairies in urban areas, the land of the petitioner stood acquired by the respondent Department. The petitioner was compelled to shift his dairy in the year 2007 to the Kakrola Dairy Colony from his earlier address.

On 03.12.2009, the petitioner received the impugned letter from the Department informing him that the allotment of his plot stood cancelled as during the verification drive conducted by the Department it was observed that he was not maintaining any dairy at his earlier site. The petitioner made a representation dated 18.07.2016 but this was not adhered to. He has accordingly been constrained to file this writ petition in September, 2016.

At the outset, this Court on 05.09.2016 had noted that the petitioner was aggrieved by the alleged illegal act of the respondent which was a communication dated 03.12.2009. He had admittedly filed this writ petition in September, 2016 after a delay of 7 years. The Court, in the first instance, had in this order noted that the delay appears to be unexplainable as the entire body of the writ petition was silent as to what he did in these seven years i.e. between 2009 up to the date of filing of this petition in the year 2016.

A counter affidavit has been filed by the respondent. Their first objection is on delay and laches. On merits, their submission is that the petitioner is not entitled to any plot. Submission is that pursuant to a judgment delivered by this Court on 16.12.2002 in W.P. (C) No.3791/2000 titled Common Cause Society Vs. Union of India and Others, a dairy colony was being developed at Ghogha; there was a proposal for relocation of eligible illegal dairies from the urban limits of Delhi to Ghogha Dairy Colony. Initially, a total number of 1373 applicants had booked dairy plots. As per this Ghogha Dairy Scheme, the basic criteria for allotment was that (i) the dairy must be in an urban area; (ii) dairy must have five adults cattle. A Stray Cattle

Committee had been formulated by this Court on 08.03.2007 to carry out its directions; this Committee comprised of the Commissioner, Municipal Corporation of Delhi, Chairman, NDMC, Vice-Chairman, DDA, a senior Advocate of this Court as also a retired Additional District Judge. The information to this effect was published in the local newspaper. Surveys were conducted.

The Respondent has not disputed that the petitioner had applied for a dairy plot on 08.12.2005 pursuant to which he had deposited a sum of Rs.75,000/-. The address mentioned by the petitioner was T-8, Water Tank, Mansarovar Garden, Delhi. The petitioner however never informed the respondent that he, at any point of time, had changed his address. This has also not been averred in the writ petition and this Court notes this fact.

Further submission of the respondent is that on 29.11.2007, the three members Zonal Verification team had carried out inspection of the alleged dairy at the address of the petitioner but no dairy was found functioning at this address. The Verification Committee had accordingly rejected the plea of the petitioner for allotment of a plot at Ghogha Dairy. Petitioner never informed the respondent that he had, at any point of time, changed his address. His address all along in the record of the Department was T-8, Water Tank, Mansarovar Garden. No dairy was found running there. Further stand of the respondent is that the petitioner is now trying to twist the facts. Even presuming that the petitioner had shifted his dairy from this address and had started a dairy farm at Kakrola Village, he would not fit into the eligible criteria as one of the conditions for allotment of a plot at

Ghogha Dairy Colony was to be found running in an urban area and his address at the Kakrola Village would not qualify as an urban area.

Rejoinder has also been filed reiterating the averments made in the writ petition and denying the submissions in the counter affidavit. Learned counsel for the petitioner in support of his submission has placed reliance on two documents. The first is a challan dated 08.04.2003 to substantiate his submission that he had been challaned in the year 2003. The second is a document (Annexure P-2) showing that an amount of Rs.33,200/- was spent; submission being that this document dated 15.03.2003 and on this date the petitioner had purchased food for his cattle in that year. This Court notes that both these documents are silent on the address of the petitioner. The first document mentions the name of the petitioner but the second document is silent on the name as well. These documents do not advance the case of the petitioner; they are both prior to the date of inspection. It is not the case of the petitioner that he had ever informed the Department about the change of his address.

That apart, even presuming that the first document is an honest document, this Court notes that the Inspection Team which had carried out the inspection of the area in question on 29.11.2007 to determine as to whether the petitioner was running a dairy from an urban area has been clearly averred in para 13. This has not been denied. The factual position being that a three members Zonal Verification team of the Department did not find any dairy being run at T-8, Water Tank, Mansarovar Garden. The contention of the petitioner that he had shifted his dairy to Kakrola Village would also

not help the case of the petitioner as Kakrola Village not being an urban area would not entitle the petitioner for a plot under the Ghogha Dairy Scheme which as per the respondent categorized two conditions for allotment, one of which was that dairy should be running in an urban area and Kakrola Village not qualifying as urban area, he would not be entitled to allotment of a plot on this count.

That apart this Court also notes the inordinate delay on the part of the petitioner in approaching this Court. The impugned letter rejecting his allotment is dated 03.12.2009. In this communication, the petitioner had been informed that his application for allotment had been disallowed and he was required to furnish necessary documents (as detailed in the aforementioned letter) in order that his refund would be processed at the earliest. The petitioner has approached this Court in July, 2016. The prayer in the present petition is not for the refund of the earnest money which as per the communication of the respondent the respondent was ready to return to the petitioner pursuant to his furnishing certain documents.

In this background, the prayer of the petitioner seeking allotment of a plot cannot be granted. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

NOVEMBER 23, 2016

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