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

+ LPA 278/2015 & CMs.17734-17735/2015

GOVERNMENT OF NCT OF DELHI

THROUGH SECRETARY

..... Appellant

Through Mr.Yeeshu Jain & Mr.Siddharth
Panda, Advocates

versus

SUNIL RAVI PRAKASH AGARWAL & ANR Respondents

Through Mr.Ashish Mohan, Mr.Mohit Kumar,
Advocates for R-1
Ms.Pallavi Shali, G.P., Adv. for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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08.03.2016

Ms. G. ROHINI, CHIEF JUSTICE (ORAL)

CM No.8261/2015 (condonation of delay)

Heard the learned counsel for both the parties. In the facts and circumstances explained in the application, the delay in filing the appeal is condoned and the application is disposed of.

CM. No.16340/2015

By the present application filed under section 151 of the CPC, the applicant/respondent No.1 in the appeal seeks permission to place on record certain additional documents.

Heard both the parties. The application is allowed and the additional documents are taken on record.

LPA 278/2015

1. This appeal is preferred against the order of the learned Single Judge dated 22nd August, 2014 passed in W.P.(C) No.5342/2014. The Government of NCT of Delhi/Respondent No.1 in the writ petition, is the Appellant before us.

2. The Respondent No.1 herein/writ petitioner filed the said writ petition aggrieved by the rejection of the application for allotment of alternative plot by the Assistant Housing Commissioner, Land and Building Department, Government of NCT of Delhi.

3. It is not in dispute that the land belonging to the father of the writ petitioner was acquired and an award was passed fixing the compensation under the provisions of the Land Acquisition Act. The compensation so awarded was also received by the father of the writ petitioner on 11.11.1987. As per the scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961, the father of the writ petitioner made an application claiming allotment of an alternative plot and the same was rejected as time barred on the ground that the application dated 22.12.1988 was made beyond the period of three months from the date of payment of compensation. Aggrieved by the same, the Respondent No.1 herein filed W.P.(C) No.5342/2014 and the same was allowed by the learned Single Judge by the order under appeal directing the Appellant herein to consider the application for allotment of alternative plot within two months.

4. The said order has been assailed in the present appeal preferred by the Government of NCT of Delhi contending inter alia that the order under

appeal would make the scheme for allotment of alternative land as open ended enabling the persons whose lands are acquired to apply for alternative plots at any time of their choice.

5. We have heard the learned counsel for both the parties.

6. The learned counsel appearing for the Respondent No.1 has at the outset brought to our notice that the application for alternative plot under the scheme was in fact made by the father of the writ petitioner/Respondent No.1 herein on 13.12.1987 well within the three months prescribed period. It is submitted by the learned counsel that during the pendency of the writ proceedings, the writ petitioner/Respondent No.1 herein made an application under the Right to Information Act, 2005 requesting the Land & Building Department, GNCTD to furnish a copy of the complete file relating to acquisition of the land in question and request made for alternate plot. In response thereto, the copy of the file was furnished on 08.07.2014 which included the application dated 13.12.1987 made by the father of the writ petitioner. The learned counsel submits that a second application was filed for allotment of alternate plot on 22.12.1988 only upon the request of the Land & Building Department stating that the first application was misplaced.

7. A copy of the complete file furnished to the writ petitioner/Respondent No.1 herein under the Right to Information Act, 2005 including the application dated 13.12.1987 has been filed by way of additional documents and the same has been taken on record vide CM No.16340/2015.

8. On a perusal of the additional documents, in particular the application dated 13.12.1987, it is evident that the father of the Respondent No.1/writ petitioner had made the application well within the prescribed period of three months and the same could not be controverted by the Appellant.

9. Therefore, the question of delay in making the application does not arise. Hence, the Appellant was not justified in rejecting the application for allotment of alternate plot as time barred.

10. In these circumstances, though for different reasons, we do not find any justifiable reason to interfere with the order of the learned Single Judge.

11. The appeal is accordingly dismissed and the appellant is directed to consider the application of the Respondent No.1 in terms of the directions in the order under appeal.

CHIEF JUSTICE

JAYANT NATH, J

MARCH 08, 2016
v/pk