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

+ LPA 778/2014 & CM No.19965/2014

GNCT THROUGH: SECERATARY Appellant

Through: Mr.Yeeshu Jain, Adv.

Versus

DAYANAND AND ORS Respondent

Through: Mr.S.S. Pawar, Adv. for R-1 & 2.

Mr.Arun Birbal, Adv. for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

14.03.2016

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1. This appeal is preferred against the order of the learned Single Judge dated 18.07.2014 in W.P.(C) No.4402/2014. The respondent No.1 in the writ petition/Government of NCT of Delhi is the appellant before us.
2. The said writ petition was filed by the respondents No.1 and 2 herein seeking a direction to the appellant herein to recommend the name of the writ petitioners/respondents No.1 and 2 herein for allotment of alternative plot under the scheme of Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961 on the basis of the application dated 16.12.1988. By the order under appeal, the learned Single Judge disposed of the writ petition setting aside the order dated 12.02.2014 of the Deputy Secretary, Land & Building Department and directing to pass a fresh order after considering the documents filed by the petitioners along with a representation dated 07.11.2013.
3. We have heard the learned counsel for both the parties.
4. It is contended by the learned counsel appearing for the

appellant/Govt. of NCT of Delhi that the writ petition itself was not maintainable since the petitioners had earlier filed W.P.(C) No.5857/2013 for the very same relief of consideration of their claim for allotment of alternative plot and the same was dismissed as withdrawn by order dated 16.09.2013.

5. A perusal of the said order shows that no liberty was granted to the petitioners/respondents No.1 and 2 herein to institute fresh proceedings. We, therefore, find force in the submission of the learned counsel for the appellant that it is not open to the respondents No.1 and 2 herein to re-agitate the issue by filing a fresh writ petition.

6. Even on merits of the case, we found that the writ petition is devoid of any merit. As could be seen, the father of the writ petitioners/respondents No.1 and 2 herein made an application dated 21.08.1987 for allotment of alternative land and the same was considered and closed by the Department of Land & Building for want of requisite documents/information and the said decision was communicated to him by letter dated 23.03.1993. Long thereafter, the writ petitioners/respondents No.1 and 2 herein made a representation dated 27.11.2013 for reconsideration of allotment of alternative plot. In response to the same, they were informed by the Land & Building Department vide letter dated 12.02.2014 that the application made by their father was already closed long back in the year 1993. It is not disputed before us that the closure order dated 23.03.1993 was not challenged either by the writ petitioners or by their father.

7. As is evident from the averments in W.P.(C) No.4402/2014 the father of the writ petitioner was very well aware of the closure order dated 23.03.1993. It is pleaded in the writ petition that the father of the petitioners was pursuing to get the matter re-opened and after his death on 18.11.2008, the writ petitioners made a representation on 27.11.2013 for re-consideration of the allotment of the alternative plot to which the Land & Building Department had responded by letter dated 12.02.2014 stating that there was already a closure order on 23.03.1993.

8. In the facts and circumstances noticed above, it appears to us that having allowed the closure order dated 23.03.1993 to become final, it is not open to the writ petitioners to re-agitate the claim for allotment of alternative land. That apart, the letter dated 12.02.2014 being a mere information regarding the earlier closure order dated 23.03.1993, which was admittedly served on the father of the writ petitioners, the direction in the impugned order to pass a speaking order is not warranted.

9. Accordingly, the order under appeal is set aside and LPA shall stand allowed.

CHIEF JUSTICE

JAYANT NATH, J

MARCH 14, 2016/pmc