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

+ W.P.(C) 9673/2015 & C.M. No.23088/2016

KAUSHALYA DEVI

..... Petitioner

Through Mr.Rajesh Gupta and Mr.Harpreet
Singh, Advocates.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through Mr.B.Mahapatra, Advocate for R-1.
Ms.Beenashaw N. Soni, Advocate
R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **01.09.2016**

Petitioner is aggrieved by the order dated 19.5.2015 wherein his application seeking allotment of an alternate plot has been rejected stating it to be time barred. This communication is dated 19.5.2015. It clearly states that the petitioner received compensation of his acquired land on 12.9.2002. He has made his application for allotment of alternate plot on 12.01.2004 which was beyond the prescribed period of one year.

Contention before this Court is that this finding is wrong. Attention has been drawn to a document (page 33 of the paper book) which shows that an affidavit has been filed along with the application of the petitioner seeking allotment of an alternate plot. Submission being that this application was filed in September 2003

i.e. on 10.9.2003 but it was registered only on 12.1.2004. Submission is that the document (page 33 of the paper book) substantiates the submission of the petitioner that Kaushlya Devi had filed an affidavit on 10.9.2003 which was an affidavit in support of her application seeking allotment of alternate plot. If the date of 10.9.2003 is taken then the application of the petitioner would be within time.

This submission is disputed by learned counsel for the respondent. As per the submission of the Department the application of the petitioner was filed only on 12.01.2004. Contention of the respondent is that this submission of the petitioner that there are two separate dates; one date for filing of the application and another date for registration is incorrect. There is only one date. The petitioner had filed her application only on 12.01.2004.

Learned counsel for the petitioner has placed reliance upon a judgment of the Division Bench of this Court reported as 226(2016) DLT 269 Government of NCT of Delhi Vs. Poonam Gupta. Submission being that if the delay has been explained justifiably, delay should not come in the way of the petitioner for being heard on merits. Learned counsel for the respondent submits that this judgment in the case of Poonam Gupta (supra) was delivered at the time when the period of three months (from the date when the party received compensation) had been prescribed by the Department for filing an application for allotment of alternate plot. His submission is that now there is an extended period of one year for filing an application for allotment of alternate plot.

The ratio of the judgment of Poonam Gupta (supra) notes that

if the petitioner otherwise has a case on merits, delay should not come in his way if justifiably explained. In the instant case even as per the respondent the delay would be about 3 ½ months; this Court is inclined to condone this delay.

The letter of rejection dated 19.5.2015 is accordingly set aside. The case of the petitioner be considered on merits. The application of the petitioner be disposed of accordingly on merits within an outer limit of four months from today.

With these directions petition disposed of.

INDERMEET KAUR, J

SEPTEMBER 01, 2016

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