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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9939/2015**
PANKAJ SOLANKI

..... Petitioner

Through Mr.Biraja Mahapatra, Advocate
versus

LAND AND BUILDING DEPARTMENT

..... Respondent

Through Mr.Yeeshu Jain, Advocate.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **05.09.2016**

Petitioner is aggrieved by the order dated 28.02.2014 vide which his application seeking allotment of an alternate plot was rejected on the ground that the documents asked for by the Department have not been furnished by the petitioner. The petitioner was the owner of the land which had been acquired vide Award Nos.5 & 6/1998-99 dated 21.4.1999. The petitioner had admittedly applied for an alternate plot within time which was vide his application dated 04.4.2000. His contention is that all the documents as were required by the respondent before the due date have been furnished by the petitioner; which was in the year 2000. He has drawn attention of this Court to a letter dated 30.10.2000 which was sent to the Department whereby original khatoni of the land had been annexed. Attention has also been drawn to a subsequent letter dated 09.5.2008 whereby the requisite affidavit and payment certificate in original had also been

furnished to the Department. Submission being reiterated that all the documents have been furnished to the Department and the letter communicated to him rejecting his plea for an alternate plot on this count suffers from an illegality.

Learned counsel for the respondent refutes these submissions. His submission is that three letters (dated 18.3.2014, 03.9.2013, 24.5.2013) were sent to the petitioner requiring certain documents to be furnished but in response to these communications he had not responded and the necessary document which was mentioned in the application along with an affidavit in prescribed format for not owning immovable property in an urban area of Delhi had not been submitted.

This submission is refuted by learned counsel for the petitioner. His submission is that the aforementioned letters have not been received by him. If he had received these letters he would have definitely furnished this document as sought for by the respondent. Additional submission is that all documents along with an affidavit in prescribed format had already been submitted.

Learned counsel for the respondent has placed reliance upon a judgment of a Coordinate Bench of this Court in WP(C) 10802/2005, Om Prakash Vs. UOI & Ors. decided on 29.10.2013; submission being that where the documents had not been submitted, the case of the petitioner cannot be considered by the statutory body for want of necessary documents. This Court notes the ratio of this judgment. In that case, there was an inordinate delay of 18 years in submitting the documents; letters had been sent by registered AD post by the

Department. A presumption under Section 114(f) of the Indian Evidence Act had been raised by the Court to draw a conclusion that the letters have been received by the petitioner. Facts of the instant case are distinct. The three letters (dated 18.3.2014, 03.9.2013, 24.5.2013) sent to the petitioner were not sent to him through registered A.D. post. The petitioner had not received those letters; all other documents except an affidavit of not owning any other property even as per the respondent were furnished.

In this view of the matter, the order/communication dated 28.02.2014 is set aside. The case of the petitioner be considered on merits; the same be decided on merits within an outer limit of eight months from today.

Petition disposed of.

INDERMEET KAUR, J

SEPTEMBER 05, 2016

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