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

+ LPA 64/2016

KULDIP VARMA (SINCE DECEASED THR HIS LEGAL HEIR)

..... Appellant

Through: Mr.Rajat Aneja with Ms.Chandrika
Gupta and Mr.Chetan Kakkar,
Advocates

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr.Pawan Mathur, Standing counsel
for DDA

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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02.02.2016

C.M.No.3447/2016 (for condonation of delay)

For the reasons mentioned in the application, the delay in re-filing the appeal is condoned.

The application stands disposed of.

C.M.Nos.3445/2016 (for exemption)

Exemption is allowed subject to just exceptions.

Application stands disposed of.

LPA 64/2016 and C.M.No.3446/2016 (for interim directions)

1. The appeal is directed against an order of the learned Single Judge dated 08.10.2015 whereby the appellant's request for restoration of writ petition (W.P.(C) No.6696/2004) was dismissed.

The writ petition was dismissed for non-prosecution on 01.05.2013. The application for condonation of delay and another application for restoration of writ petition were rejected by the impugned order.

2. It is contended that the learned Single Judge fell into error in not restoring the writ petition. Counsel for the appellant highlighted that the cause for delay disclosed i.e. that the original petitioner had died, was reasonable under the circumstances. Learned counsel also submitted that even otherwise, the writ petition merited consideration given that it pertains to a claim for allotment of alternative land in lieu of those acquired in 1961. Referring to the policy of 1961, it was submitted that pursuant to its contents the appellant's case was recommended for allotment by the Delhi Development Authority (DDA) on 21.04.1987, a matter which is not denied and on the record. It was submitted that the policy for allotment of industrial plots were formalised in 1991. Learned counsel referred to the various representations made to the DDA in 1995 and 1998 which did not yield any response. This ultimately resulted in the appellant approaching the permanent Lok Adalat which by an order dated 16.07.2002, after going into the entire circumstances, was of the opinion that allotment was warranted and so recommended to the Lieutenant Governor to consider the case in the light of the facts of the case. The following persistent inaction of the DDA in this regard was unreasonable and arbitrary. Learned counsel submitted that the Lok Adalat elaborately dealt with the entire controversy including pre-existing policy and was of the opinion that even in the changed circumstances i.e. the ban on meat based products having come into

force in 1991, and despite the appellant having indicating his choice of the new industry, the DDA did not consider his request for allotment, on its merits and merely rejected it.

3. This Court notices that the learned Single Judge undoubtedly was primarily concerned with the application for restoration. In this context the learned Single Judge was of the opinion that having regard to the inordinate length of delay i.e. 45 days; the application for restoration did not merit acceptance.

4. This Court is of the opinion that the appellant's claims are ex-facie belated – a fact indicated by the learned Single Judge as well. Undeniably, the recommendation was noted in the appellant's favour on 21.04.1987. However in 1991 itself (perhaps concurrently with the industrial allotment policy) a ban was declared for industries which were engaged in meat based products. The appellant was one such industry. It continued with its business and was shut down in 1993. From 1993 it may have made several representations which even the DDA might have replied to but the fact remains that till it approached the permanent Lok Adalat 8 or 9 years later in 2001, there was no attempt on its part to revive the business or seek legal redressal. This circumstance alone in the opinion of the court justifies the learned Single Judge's observations questioning the appellant's claim on the ground of delay. It has been held that the allotment of alternative land is not an entitlement (*Ramanand vs. Union of India & others* AIR 1994 Delhi 29). Furthermore, as held in *S.S.Rathore vs. State of Madhya Pradesh* AIR 1990 SC 10, the mere lodging of repeated representations ipso facto does not extend a reasonable

period of limitation to defeat the operation of doctrine of laches.

5. For the above reasons, the Court is of the opinion that there is no merit in this appeal. The appeal along with pending applications is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

FEBRUARY 02, 2016

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