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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2920/2017

ALI CHAND AND ANR

..... Petitioner

Through Mr.Sunil Chauhan, Advocate.

Versus

BLOCK DEVELOPMENT OFFICER (WEST) AND ORS

..... Respondents

Through Mr.Sakshi Popli and Mr. Tarun,
Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **23.10.2017**

1 Averments in the writ petition disclose that the predecessor-in-interest of the petitioner namely Sishal Singh was allotted a residential plot in khasra No.415/4, Village Hira Kundna measuring 125 square yards. This was under the rehabilitation scheme. On 21.11.1976, the father of the petitioner was handed over physical possession of the said plot with permission to raise construction. This document appears at Annexure P-1. Further case of the petitioner is that this original plot No. 7 which was allotted to him was exchanged at the instance of the residents of the village on 25.07.1998 and a plot depicted in red colour (page 15 of the paper book) was allotted to him in lieu of that plot. Learned counsel for the petitioner points out that the original allotment was of a different plot but the plot which was exchanged by him later on in the year 1998 was plot no. 7. He had

raised construction upon this plot. Since the petitioner suffered apprehension that his possession may be interfered with, he was constrained to file a suit. This was a suit for injunction (Suit No.206/2004 titled as Ali Chand Vs. Lt. Governor and others). His residential house was demolished in the year 2004 itself. The suit was disposed of on 20.11.2012. It was dismissed. Meanwhile during the pendency of the suit, the petitioner had also raised grievance before Public Grievance Cell. The Public Grievance Cell vide its order dated 09.02.2014 had noted the grievance of the petitioner. However since the Suit (No. 206/2004-renumbered as 339/2009) was pending before the competent Civil Court, the Public Grievance Cell was not inclined to pass any order. The aforementioned suit (at the cost of repetition) was dismissed on 20.11.2012. Again at the cost of repetition, this Court notes that the suit property of the petitioner stood demolished in the year 2004 itself. The Public Grievance Cell in its order dated 09.02.2010 had noted that the initial plot of the petitioner had been exchanged by the villagers and no written document was issued to the petitioner in lieu of that plot; this alternate plot had been given to him verbally; no written formalities were done.

2 The petitioner was running from pillar to post. He also filed a writ petition NO.5359/2013. This was disposed of by a Bench of this Court on 27.08.2013. The grievance of the petitioner that his representation was not being answered by the Department was noted; a direction was given to the Department to dispose of the representation of the petitioner within an outer time limit. This

representation has now been disposed of by the impugned order dated 21.01.2014.

3 At the outset, this Court notes that the order impugned is dated 21.01.2014; the present petition has been filed on 29.03.2017 i.e. after a gap of more than three years. The order dated 21.01.2014 is premised on a grievance which had allegedly emanated qua the petitioner in the year 2004 i.e. when his alternate plot upon which he had built a house had been demolished. This was of the year 2004. Suit No. 206/2004 filed by the petitioner was premised on an apprehension that he might be dispossessed from that plot. That apprehension became factual when his residential house was actually demolished and he was dispossessed from his house in 2004 itself. The petitioner had approached the Public Grievance Cell who had while disposing of his representation in the year 2010 noted that not only a Civil Suit qua the same issue is pending before the Competent Court but the alternate plot upon which the petitioner had raised a residential house had been allotted by the villagers without any written document or without any written formalities having been completed and this was the reason why his plot had been demolished by the respondent. The order passed in Suit No. 206/2004 is not on record but it obviously was premised on the same issue which is now continuing to be raised by the petitioner.

4 The petitioner has no legs to stand on. He has no document to show that an alternate plot upon which he had built his house has been given to him; even as per the petitioner he admittedly has no

written document to the said effect. The document dated 27.09.1976 (heavily relied upon by the petitioner) has been considered in the impugned order. The impugned order has noted that this document/patta certificate and other related documents i.e. LR-37 had over-writings and cuttings which destroyed the authenticity of the document. The impugned order had also noted that in the Civil Suit (Original No.206/2004 - re-numbered as Suit No.339/2009) had directed removal of the construction made by the petitioner on the so called existing plot for all the aforementioned reasons as also for the fact the pradhan of the Gaon Sabha had no approval from any Competent Authority to give an alternate plot to the petitioner and the aforementioned alleged allotment was per-se illegal. This Court endorses the order of the BDO. This Court notes that by invoking this litigation after a period of more than three years (qua the unsigned letter dated September 2013) the petitioner is again trying to subvert the process of justice by attempting to build up a case for which he does not have the basic foundation. He admittedly has not even a single paper in his hand to substantiate his case that he had ever been allotted the aforementioned plot and his alleged residential house on the aforementioned plot had been demolished. This was even otherwise in the year 2004. The present writ petition filed in 2017 premised on the same cause would not give rise to a fresh cause of action in his favour.

5 The case of the petitioner must necessarily fail. This Court is of the view that this litigation is nothing but an abuse of the process of

the Court. Petition is dismissed with cost quantified at Rs.10,000/-.

INDERMEET KAUR, J

OCTOBER 23, 2017

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