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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5187/2016**
SHRI RAM

..... Petitioner

Through Mr.Rupesh Kumar, Advocate.

versus

STATE (GNCT OF DELHI) & ORS

..... Respondents

Through Mr.Varun Nischal, Advocate.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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26.07.2017

Petitioner is aggrieved by the letter dated 05.12.2014 wherein the plot which had been allotted to the petitioner (Plot No.223, Khasra No.630, Village Ghitorni, New Delhi) stood cancelled. This order was passed by the Block Development Officer.

Record shows that the petitioner was allotted the aforementioned plot under a Twenty Point Programme in July, 1984. Intimation was not received of this allotment by the petitioner. On 13.7.1987 one imposter allegedly entered into an agreement to sell with one Neelam Kaushik vide GPA, receipt and will. The petitioner was unaware of this transaction. This plot was again sold on 24.01.2002 by another imposter who impersonated himself as the petitioner. The signatures of the petitioner on the said documents i.e. GPA, agreement to sell dated 24.01.2002 were forged and fabricated as one person by the

name of one Tanvir impersonated as petitioner and appended his signatures on the GPA. The petitioner was not a party to these transactions. Petitioner learnt about these transaction only when FIR No.28/2009 registered under Section 420/468/471 of the IPC at police station Mehrauli; this was on the complaint of the purchaser Bimla Bharti. Bimla Bharti had entered into this transaction on 24.01.2002 with the said imposter Tanvir. This came to the knowledge of the petitioner only on 21.01.2009 when the petitioner was summoned as a witness in the said proceedings. Petitioner had received notice of these proceedings (under Section 160 Cr.P.C.) in August, 2009. Challan has since been filed.

Vehement submission of the petitioner is that he was never a party to the aforementioned transactions. He was not a complainant in this FIR; he was only arrayed as a witness. He learnt about this FIR proceeding only in August, 2009 when he received a notice from the Investigating Officer and asked to appear as a witness in the said matter. These forged and fraudulent transactions which had been carried out in his name were never at his asking. The plot which had been initially allotted to him was wrongly cancelled. Order dated 05.12.2014 is liable to be set aside.

Counter affidavit has been filed by the respondent. Learned counsel for the respondent points out that the petitioner was fully aware of his allotment all along and his submission that he was not aware of it is incorrect. The petitioner himself had sold this plot of land contrary to the terms of the allotment and as such his allotment

stood cancelled and the land stood reverted back to the Gaon Sabha on 17.6.1998. Transfer of land is not permissible where allotment was granted under the Twenty Point Programme. Petitioner could not have transferred this allotted plot of land to any third person and as such his allotment was rightly cancelled. The condition of Patta was also violated as the plot was not built up during the lease period. The possession of this plot of land has now been handed over to the Chief District Medical Officer, Government of NCT for the purpose of running a Mohalla Clinic at the site where it has been run since 11.7.2016; possession proceedings dated 11.7.2016 are a part of the record. Petitioner has approached the Court after an unexplained delay for which he necessarily has to suffer.

Rejoinder has been filed reiterating the averments made in the petition and denying the defence set up by the respondent. It is pointed out that the investigation in the criminal proceedings is yet in progress and the proceedings in the Trial Court qua the FIR are on; till the same is culminated it cannot be said that the petitioner has no case. The petitioner was an illiterate senior citizen and being below the poverty line he did not know how to respond to the notice received by him in August, 2009. Limitation cannot be counted from that period.

Arguments have been heard. Record has been perused.

What transpires is that the petitioner had been allotted a plot of land under the Twenty Point Programme; this was in the year 1984. Record further evidences that the first sale transaction qua the said

plot of land had been entered on 13.7.1987; another transaction for the sale of this plot of land had taken place on 24.01.2002. On 21.01.2009 FIR No.28/2009 under Sections 420/468/471 of the IPC came to be registered at police station Mehrauli at the complaint of Bimla Bharti. Bimla Bharti allegedly bought this plot of land for a consideration but she not having received physical possession of the same as the land appeared to be in dispute having been sold several times was constrained to get this criminal complaint registered. This complaint has been registered against one Tanvir who had allegedly sold this plot of land to her. This plot of land in fact changed several hands and this is also clear from the averments made in the petition. It is an admitted position that the trial has progressed in the FIR No.28/2009 in the competent court. The petitioner has been arrayed as a witness. Even as per the case of the petitioner (presuming it to be the gospel truth) he learnt about this proceedings in August, 2009 when he received a notice to appear as a witness in the FIR; this was on 31.8.2009. The present petition was filed on 23.5.2016 i.e. after a gap of more than six years. What transpired in those six years has not been explained by the petitioner. If he was the bona fide owner of this plot of land and continued to remain so up to the year 2009; even when he learnt about the fraudulent transaction qua this property having been effected in the year 2009 yet in this intervening period of more than six years up to 23.5.2016 why the petitioner did not take any action qua this plot of land has not been whispered at all in this

petition. Even on an oral query put to the learned counsel for the petitioner he has no answer. The petitioner is playing hide and seek and he has not come to the Court with clean hands. It is also difficult to imagine that a person who has been allotted a plot in the year 1984 did not bother to find out about the fate of his allotment (as admittedly this was an allotment made on his application under the Twenty Point Programme) and up to 2009 he was unaware that if a plot was ever allotted to him or not. This submission of the petitioner is difficult to digest. It is further difficult to imagine that a person who had made an application seeking allotment of an alternate plot did not care to find out what was the fate of this application till one day when he learnt about the fate of this application in the year 2009. If that be the position it is a clear case where the petitioner should not have been granted such an allotment as the allotment under the Twenty Point Programme was to rehabilitate such harijans who are in the need of residential accommodation.

The documents filed by the respondent along with their counter affidavit reflect that the petitioner's name had figured in the allotment; there was also a rider that such a plot of land which has been allotted under the Twenty Point Programme cannot be sold. This land had thereafter vested in the Gaon Sabha and vide order dated 27.5.2016 of the Government of NCT of Delhi this plot of land has now been allotted to the Directorate of Health Services for opening a Mohalla Clinic which is being run from there.

This Court would again like to reiterate that the petitioner even till date has not taken up his cause of action. If his plot of land had been fraudulently sold by imposters to a third party apart from this writ petition which has been filed (in the year 2016) no action has been taken qua information received (even as per the petitioner in the year 2009) about this cheating and impersonation. It is not as if the petitioner has taken up any civil cause of action. This writ court cannot help him on fact findings which have to be returned essentially by a fact finding court. This petition appears to be misconceived. It has no merit. It is dismissed.

INDERMEET KAUR, J

JULY 26, 2017
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