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

% ***Judgment pronounced on : 19th January, 2017***

+ **LPA 384/2016 & C. M. APPL. No. 22911-12/2016**

GOVERNMENT OF NCT OF DELHI THR SECRETARY (LAND &
BUILDING DEPARTMENT)Appellant

Through : Mr. Yeeshu Jain, Standing Counsel for
Land & Building.

Versus

DHARAM PALRespondent

Through : Mr. L. C. Rajput, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J.

C. M. APPL. No. 22911/2016 (*Delay in filing*)

Heard.

For the reasons stated in the application and in the interest of justice,
delay of 256 days in the filing the present appeal is condoned.

Application stands disposed of.

LPA 384/2016

1. The present appeal has been preferred against the impugned order
dated 19.08.2015 passed by the learned Single Judge in W.P.(C) No.

3124/2014 whereby the learned Single Judge allowed the writ petition of the respondent herein. The unsuccessful respondent in the writ petition is the appellant before us.

2. The brief facts of the present appeal stated by the appellant are that the respondent was the owner of two parcels of land situated in Village Nilothi, Delhi. Vide notification 06.01.1995 under Section 4 of the Land Acquisition Act, 1894 lands falling in Village Nilothi, Delhi were acquired by the Government for the public use. Pursuant to the aforesaid notification, Award No. 7/96-97 was announced. The respondent received compensation i.e a sum of Rs. 10,89,014/- in respect of first parcel of land on 14.03.1997 and a sum of Rs. 3,63,004/- with TDS quantified at Rs. 3155/- in respect of the second parcel of land on 01.05.2000. He applied for allotment of alternative plots on 27.05.1998 and 31.05.2001 respectively. By communication dated 28.11.2013 issued by the appellant the respondent's application dated 31.05.2001 for allotment of an alternate land had been rejected on the ground that it was filed beyond the prescribed period of limitation. W.P.(C) 3124/2014 was preferred against the communication dated 28.11.2013 issued by the appellant wherein the Learned Single Judge held that :

*"12. Thus, having regard to the observations made in **Renu Aggarwal's** and **Simla Devi's** case, I am inclined to allow the instant writ petition. It is ordered accordingly. The Recommendation committee shall re-consider the application of the petitioner. For this purpose, a notice shall be issued to the petitioner setting out therein the date, time and venue where he is required to present himself. The recommendation*

committee will accord a personal hearing to the petitioner. In case the petitioner is required to furnish any documents the notice would indicate the same. Needless to say, the aforesaid exercise will be concluded by the recommendation committee with due expedition though, not later than three (3) months from today. The recommendation committee shall give reasons for its orders and communicate the same to the petitioner within two (2) weeks of it being passed. In the event, the decision taken on the petitioner's application is to recommend the petitioner's case for allotment of alternate land, it shall retain the same seniority which it would have obtained, had it been so recommended, in the first instance.

13. The writ petition is disposed of in the aforesaid terms. There shall be, however, no order as to costs."

3. Assailing the judgment of the learned Single Judge Mr. Yeeshu Jain, Standing Counsel for Land & Building for the appellant submitted that the learned Single Judge without any justification or cogent reasons condoned the delay when the application for allotment of alternative plot was time barred as the same was filed after a period of one year.

4. Per Contra, Mr. L. C. Rajput learned counsel for the respondent refuted the arguments of the appellant and submitted that the view taken by the learned Single Judge is correct and does not require any interference. It was urged by the counsel that the department itself had taken a decision in relation to his application dated 31.05.2001 for alternate plot after more than 12 years to state that there was a delay of nearly 30 days.

5. We have heard the learned counsel for the parties, examined the impugned judgment and perused the material placed before us.

6. We deem it appropriate to rummage through the communication dated 28.11.2013 of the Land and Building Department as well as the public notice dated 30.11.1993. The communication dated 28.11.2013 regarding the allotment of alternative plot in lieu of acquired land addressed to the respondent is reiterated as under:

"With reference to the above-mentioned subject, it is to inform you that your case for allotment of alternative plot in lieu of acquired land has been placed before the meeting of Recommendation Committee held on 09/10/2013 and the Committee observed that as per available records, the applicant Shri Dharam Pal received the compensation of his acquired land on 01.05.2000 whereas the application to allotment of alternative plot in lieu of acquired land was submitted by him on 31.05.2001 which is beyond the prescribed time limit of one year. Hence the case being time barred is REJECTED..."

7. The public notice dated 30.11.1993 which has been brought to our notice is reproduced as under :

*".....6. As regards future cases i.e. those in which land acquisition proceedings are finalized after the date of this notice, applications for allotment of alternative plot will be considered by the department **within a period of one year from the date of finalization of the land acquisition proceedings.** This will be a standing arrangement for which no separate public notice, fixing further time limits from time to time as in the past, will be required. The application forms will be supplied free of cost by the Land Acquisition Collector to the persons receiving the compensation at the time of its disbursement. In addition, copies may be obtained free of charge from the Reception Counter of the Land & Building Department*

between 10.00 A.M. and 5.00 P.M. on all working days....."

8. It is in accordance to the aforesaid public notice that the appellant is claiming the application of the respondent for allotment of alternative plot as time barred. The question that remains for consideration before us is whether the 30 days delay in filing the application with respect to the second parcel of land could disentitle the respondent for being considered for allotment of the alternate plot.

9. Admittedly, the compensation relating to the second parcel of land was received by the respondent on 01.05.2000 and the respondent applied for allotment of alternative plot on 31.05.2001 after a delay of nearly 30 days. As per the public notice dated 30.11.1993 the respondent had to file the application within a period of one year from the date of finalization of the land acquisition proceedings but the same appears to be directory and there is nothing surfacing the basis for such fixation. Undoubtedly, delay defeats equity if there is negligence attributed by the parties but in the present facts and circumstances of the case, the respondent would be seriously prejudiced if his application is not considered for allotment of alternate plot.

10. Material on record discloses that the appellant has not tendered any document to show that the public notice dated 30.11.1993 was in public domain and easily accessible to the public at large rather it is averred by the appellant that there was no need to have a separate public notice. We are in affirmity with the finding of the learned Single Judge that between the

issuance of public notice and notification under Section 4, there was a gap of 12 years and it cannot be expected of an applicant to go through old document of the department for filing the application.

11. We are of the considered view that the delay of 30 days in the present case is negligible and in this background, we are in consonance with the view taken by the learned Single Judge.

12. There is no justifiable reason to interfere with the finding of the Learned Single Judge. Resultantly, the appeal being without any merit is dismissed.

C.M. APPL. No.22912/2016

In view of the order passed in the appeal, this application is rendered infructuous.

SANGITA DHINGRA SEHGAL, J.

CHIEF JUSTICE

JANUARY 19, 2017

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