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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5511/2016**
VIJAY AND ANR

..... Petitioners
Through Mr. N.S. Dalal and Ms. Toral
Banerjee, Advs.

versus

LAND & BUILDING DEPARTMENT

..... Respondent
Through Ms. Mini Pushkarna and Ms.
Vasundhara Nayyar, Advs

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **26.07.2017**

The petitioner is aggrieved by the letter of rejection dated 15.04.2014 issued by the respondent wherein the application of the petitioner seeking allotment of an alternate plot in lieu of his acquired land was dismissed. It was dismissed on the ground of limitation. The aforementioned communication informed the petitioner that the compensation for the acquired land of the petitioner was received by him on 28.09.1993; his application seeking allotment of an alternate plot was submitted on 26.05.2000; this was beyond the prescribed time limit of one year. The case was accordingly rejected the application of the petitioner. The petitioner is aggrieved.

Record shows that the land of the petitioner was acquired vide an Award dated 02.04.1993. Admittedly the father of the petitioner had received compensation in the year 1993. His additional

submission is that he had received another part payment of his compensation on 03.05.2000 and the earlier compensation which he had received in the year 1993 was only a part compensation. He has also relied upon the payment certificate which had been issued to him in September, 2000. Submission being that his application seeking allotment of an alternate plot submitted by him on 26.05.2000 thus cannot be time barred. This application had in fact been moved by the father of the petitioner namely Balbir Singh during his lifetime. The father of the petitioner died on 18.11.2012. Thereafter the matter was being pursued by the petitioner and he had received letter from the respondent on 29.05.2013 as also on 10.09.2013 wherein additional documents had been sought for from the petitioner. On 15.04.2014 he had been cursorily informed that his application stood rejected as it was beyond the period of time. All representations made thereafter were to no avail.

Learned counsel for the petitioner has placed reliance on a judgment of the Apex Court reported as 1994 SCC (1) 44 Ram Chand Vs. Union of India to support his submission that the statutory authorities also have a statutory obligation and this statutory obligation have also be performed within a time span; the Department sat over his application of the year 2000 right up to 2014 when they decided to reject it; it does not lie in the mouth of the Department to say that the case of the petitioner stands time barred as the respondent itself is also a guilty of laches.

A counter affidavit has been filed. Learned counsel for the respondent submits that the compensation for the acquired land of the

father of the petitioner had been received by him on 28.09.1993 and a period of one year is prescribed for seeking allotment of an alternate plot which was the period within which the said application could have been filed. The father of the petitioner filed his application on 03.05.2000 which was more than after seven years for which there is no explanation. Learned counsel for the respondent additionally points out that the payment which has been received by the petitioner on 03.05.2000 was towards the enhanced compensation which has been allowed by the Reference Court. It is not an additional compensation as is sought to be argued by the petitioner. The material date would be 28.09.1993 i.e. the date when the complete compensation had been paid by the LIC to the father of the petitioner. The petition being time barred, the petitioner is not entitled to any relief. Learned counsel for the respondent in support of his submission has placed reliance judgment of the Division Bench of this Court in 2014 (7) AD (Delhi) Smt. Ramwati & Others Vs. GNCTD; submission being that an inordinate delay like in the instant case is in fact indicative of the fact that the petitioner was not in need of the plot.

Rejoinder has also been filed.

In the course of arguments, learned counsel for the petitioner has drawn attention to the payment certificate showing that certain amount had been paid as compensation on 03.05.2000.

Arguments have been heard.

The facts narrated above are not in dispute. It is not in dispute that the land of the father of the petitioner stood acquired vide an

Award of 1993. It is also not in dispute that the compensation has been received by the petitioner on 28.09.1993. This was in the sum of Rs.2,18,191/-. This was the complete compensation which had been received by the father of the petitioner. He being dissatisfied had moved the Reference Court seeking enhancement of compensation which was enhanced and accordingly some more amount was received by him on 03.05.2000. This would not enhance the period of limitation. Admittedly compensation had been received by the father of the petitioner on 28.09.1993 and as rightly pointed out by the learned counsel for the respondent the date of 28.09.1993 would be relevant as to when the petitioner could have filed his application seeking allotment of an alternate plot. It is also not the case of the petitioner that there is no time limit prescribed for such an application. This time limit was one year. The application filed by the petitioner in May, 2000 was much beyond the period of limitation and his submission that he was granted enhanced compensation on 03.05.2000, the period of limitation was to be counted from that date is a misconceived and misunderstood submission. This Court is not in agreement with this submission of the learned counsel for the petitioner.

That apart, the whole idea for grant of alternate plot to the persons was with the object to allow those persons to be rehabilitated; being homeless on the acquisition of their land; they needed an alternate plot in order they could again be re-established. In the instant case, the land of the petitioner was acquired in the year 1993. He had received compensation in the same year. The application filed

by the father of the petitioner seven years later in May, 2000 is clearly indicative of the fact that he was not in need of the alternate plot as it is difficult to imagine that the family of the petitioner remained homeless or landless for seven years and yet in this entire period of seven years, they did not care to move an application seeking allotment of an alternate plot. Had it really been a case where the petitioner and his family were homeless, they would have moved such an application within the time span allotted.

In *Government of NCT of Delhi Vs. Jangli Ram & Ors.* in a *LPA 112/2015* the Bench of this Court relying upon the judgement *Ramwati Vs. Government of NCT of Delhi MANU/DE/2387/2014* in this context had noted as under:

*“An applicant for alternative land in lieu of acquired land, who sleeps over his/her right cannot wake up as and when he / she desires and claim allotment of alternative land. The Scheme of allotment of alternative residential plot in lieu of acquired land is rehabilitative in nature and considering that such allotment of alternative land is in lieu of acquired land, there is an element of urgency therein. Once an applicant is found to have not been diligent in pursuing such an application and /or is found to have slept over the matter, it has but to be presumed that he / she is not interested and not in need of any welfare rehabilitative measure. It cannot be lost sight of that the full bench of this Court in *Ramanand Vs. Union of India* AIR 1994 Delhi 29 has held that the Scheme does not vest any right in anyone to alternative land and that the only right under the Scheme is a right to be considered; it is for the applicant to take steps for his / her case to*

be considered and if does not take such steps, cannot claim that any right has been violated.”

The judgment relied upon by the learned counsel for the petitioner Ram Chand (supra) would not be applicable to the facts of the instant case. It is known fact that the Department was overburdened with the hundreds of applications which were being filed by plot holders; the timeline taken by the Department was for the reason that documentary evidence had to be collected and it was after the scrutiny of the aforementioned documents was the Department in a position to pass a reasoned order. After the documents had been received by the Department it was learnt that the application of the petitioner was time barred and it was thus accordingly rejected. The ratio of the said judgment would not be applicable to the facts of the present case.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 26, 2017

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