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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 302/2017**

Date of Decision: 28.04.2017

LAND & BUILDING DEPARTMENT Appellant
Through: Mr.Bijara Mahapatra, Advocate
versus

SH.DINESH KUMAR & ORS. Respondents
Through:

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT (ORAL)

ANU MALHOTRA, J

CM No.15523/2017 (for exemption)

Exemption allowed, subject to just exceptions.

CM No.15522/2017 (condonation of delay)

Having heard learned counsel for the appellant, we are satisfied that the appellant has adequately explained the delay of 184 days which has occasioned in filing the appeal within the statutory period of limitation.

The delay in filing the appeal is condoned.

The application is allowed.

LPA 302/2017

1. The appellant assails the order dated 9th September, 2016 by the learned Single Judge in WP(C) 5486/2015 wherein the learned Single

Judge was pleased to accept the explanation given by the respondents for the delay in seeking allotment of an alternate plot against acquisition of his land which had been rejected by the appellant on the sole ground that it was beyond the one year calculated from the date when the compensation was received by him towards the acquisition.

By the impugned order dated 9th September, 2016, the learned Single Judge has directed the appellant herein to re-consider the application of the respondent No.1 on merits for allotment of an alternative plot.

2. Our attention is drawn to the order dated 22nd March, 2017 dismissing the LPA No.138/2017 ***Government of NCT of Delhi v. Sanjay & Ors.*** and LPA No. 139/2017 ***Govt. of NCT of Delhi v. Dhan Raj & Anr.***.

3. LPA No.138/2017 was filed by the Government of NCT of Delhi challenging similar order passed in WP(C) No.8636/2016 ***Dhan Raj V. Government of NCT of Delhi & Anr.*** and LPA No.139/2017 and similar order in W.P.(C) No. 8566/2016 titled ***Sanjay & Ors. v. Government of NCT of Delhi & Anr.***.

4. It appears that these writ petitions were filed by the persons who were placed similarly as Dinesh Kumar (respondent No.1 herein). Writ Petition (Civil) No.5486/2015 titled ***Dinesh Kumar v. Land & Building Department***, was filed challenging failure to consider his application for grant of alternate plot upon acquisition of his land, on the ground that his application was filed beyond the prescribed limit of one year after acceptance of compensation in view of acquisition of the land. After considering the case of the writ

petitioners with W.P.(C) No.5486/2015, was allowed by the learned Single Judge on consideration of the verdict in ***Chander Bose vs. Union of India***, 107(2003) DLT 604 and W.P.(C) No.1967/1987 ***Rattan Singh vs. Union of India & Ors.*** By way of LPA 138/2017 ***Govt. of NCT of Delhi v. Sanjay & Ors*** and LPA 139/2017 ***Govt. of NCT of Delhi v. Dhan Raj & Anr.***, the challenge by the Government of NCT of Delhi to orders passed by the learned Single Judge was rejected by this Court by the order dated 22nd March, 2017 holding as follows:

“ 7. The material available on record shows that the respondents herein/writ petitioners made applications for allotment of an alternate plot in the year 2003 in terms of the scheme. Long thereafter, in the year 2015 their applications were rejected as time barred on the ground that the applications were made beyond the prescribed time of one year. Aggrieved by the same, the respondents herein filed W.Ps.(C) No.8636/2016 and 8566/2016 respectively. The learned Single Judge found that in W.P.(C) No.8566/2016 there was delay of 7 days and in W.P.(C) No.8636/2016 there was delay of 4 days in making the application for alternative plot. The learned Single Judge was, therefore, of the view that the negligible delay of 4 days and 7 days should not come in the way of considering their claims on merits. Accordingly by the orders under appeal, the rejection orders were set aside and the writ petitions were disposed of with a direction to consider the applications of the writ petitioners on merits.

8. The said orders, in our considered opinion, warrant no interference on any ground whatsoever.”

5. We find that the case of the appellants in LPA No. 138/2017

Govt. of NCT of Delhi v. Sanjay & Ors and LPA No. 139/2017 ***Govt. of NCT of Delhi v. Dhan Raj & Anr.*** is similar to the case of the present respondent Dinesh Kumar. We see no reason at all to take a different view in the present matter.

6. In the present case, the learned Single Judge has accepted the explanation of the respondent for the delay which was occasioned in making the application for an alternate plot.

7. The impugned order dated 9th September, 2016 does not warrant any interference.

8. In view of the above, we find no merits in the appeal.

ANU MALHOTRA, J

ACTING CHIEF JUSTICE

APRIL 28, 2017/sv