

(9)

\$~ 23 to 26

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

+ LPA 632/2016

RAJENDER SINGH

.....Appellant

versus

LAND AND BUILDING DEPARTMENT

....Respondent

+ LPA 633/2016

HAR KAUR

.....Appellant

versus

LAND AND BUILDING DEPARTMENT

....Respondent

+ LPA 634/2016

JAGBIR SINGH

.....Appellant

versus

LAND AND BUILDING DEPARTMENT

.....Respondent

+ LPA 635/2016

ARUN KUMAR

.....Appellant

versus

LAND AND BUILDING DEPARTMENT

.....Respondent

Present: Mr. Naresh K. Daksh, Advocate for the appellant in LPA
Nos. 632/2016, 633/2016, 634/2016 & 635/2016.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

08.03.2017

%

LPA Nos. 632/2016, 633/2016, 634/2016 & 635/2016

Page 1 of 6

Signature Not Verified
Digitally Signed
By:AMULYA



SANGITA DHINGRA SEHGAL, J.

1. The present appeals arise out of a common order dated 26.07.2016 passed by the learned Single Judge in Writ Petition (C) Nos. 7837/2014, 7844/2014, 8220/2014 and 8234/2014. The unsuccessful petitioners are the appellants before us.
2. The appellants are seeking a plea for allotment of an alternate plot entitled to them under the scheme "Large Scale Acquisition Development & Disposal of Land in Delhi" (hereinafter referred to as "the Scheme") issued by the Government of India, Ministry of Home Affairs vide their letter No.37/16/60-Delhi(i) dated 02.05.1961.
3. Since an identical issue is raised in all the appeals, for the purpose of appreciating the facts, we are only referring to the facts of LPA No. 632/2016.
4. It is the case of the appellants that the land belonging to their respective predecessors had been acquired in terms of the Scheme in the year 1980. The father of the appellant applied for alternative plot on 19.08.1986 but the case was rejected on 01.11.1991 on the ground of non-submission of documents.
5. On 25.08.1994, the father of the appellant gave a representation for reopening the matter, after which the respondent asked him to furnish certain documents. Thereafter, pursuant to the directions passed by this Court in the case of Shri Narain Singh, the father of the appellant again made a representation dated 02.12.2009 to the respondent. However, no decision was taken by the respondent on the representation made by the father of the appellant, due to the pendency of the appeal filed by them in the case of Shri Narain Singh. The

9

Special Leave Petition preferred by the respondent against the order passed in favour of Shri Narain Singh was dismissed in the year 2014 and the father of the appellant again filed a representation dated 19.02.2014 seeking parity with the case of Shri Narain Singh.

6. Since the respondent failed to consider the representation of the appellants, the appellants filed a writ petitions bearing No. 7837/2014, 7844/2014, 8220/2014 and 8234/2014 before the learned Single Judge. The learned Single Judge vide a common order dated 26.07.2016 dismissed the writ petitions and held as under:-

"This Court is of the view that the dicta laid down by the Division Bench of this Court in the aforementioned judgment would be applicable to the facts in hand. Admittedly, even as per the case of the petitioners, they had made an application in August, 1994 for reopening of their case which had been closed in November, 1991; for the next 10 years i.e. up to December, 2009 they had not taken any steps in the matter. They had made a request to the Department in December, 2009 but thereafter again slept over the matter till November, 2014 (when as per them) they learnt about the judgment having been passed in favour of their uncle and they thereafter approached this Court.

This Court is not in sympathy with this attitude of the petitioners. The scheme for allotment of an alternate plot had been floated by the Government to give succour to those persons who were without a home. It was for those persons who had been rendered homeless because of the acquisition of the land. If this purpose is allowed to be flouted and the petitioners are allowed to apply for alternative plots years later, the obvious presumption is that they had homes in these preceding years as it cannot be imagined that in all those years they remained homeless or without an alternate house. This scheme has not been floated for any commercial purpose. This Court is highly suspicious about the attitude of the petitioners.

The case of Narain Singh is distinct. In that case, the Department had in the year 2007 communicated to Narain

10

Singh that his plea for allotment of alternate plot has been rejected whereupon he had approached the Court forthwith and got order in his favour. He had played an active role. The present petitioners cannot be treated at parity. They did not bother to find out about the fate of their applications which they had filed in the year 1994 up to 2009 and even after their representation of December 2009 they slumbered over their rights (if any) till November, 2014 when they approached this Court.

This Court is not inclined to entertain the plea of the petitioners. The petitions are barred by laches. They are dismissed."

7. Mr. Naresh K. Daksh, learned counsel appearing for the appellants vehemently urged that they had diligently followed their applications for alternative plots and answered all the queries of the respondent and the representations of the appellants were kept pending by the respondent for more than 20 years. He further submitted that there was every delay and inaction on part of the respondent in taking a decision in the matter.

8. The learned counsel for the appellants added that the respondent was duty bound to consider the matters of the four applicants on parity with the case of Shri Narain Singh and the failure to do so would be against all principles of law and justice.

9. We have heard learned counsel for the parties and perused the material available on record.

10. At the outset it is relevant to peruse the objective of "Large Scale Acquisition Development & Disposal of Land in Delhi" announced by Govt. of India, Ministry of Home Affairs vide their letter No.37/16/60-Delhi(i) dated 02.05.1961 which is recapitulated as

11

under:-

"The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure."

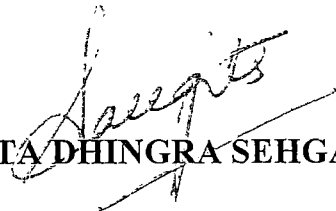
11. As could be seen from the portion extracted above, it is clear that the intention of the government for introducing the scheme for awarding alternative plots is solely rehabilitative in nature and is meant to serve only those persons who are left homeless and have no other place to live due to their land being acquired by the government. This Scheme is not meant to serve any commercial purpose. We are in consonance with the inference drawn by the learned Single Judge that the obvious presumption in the present case would be that the appellants had an alternate place to live during all the preceding years since the issue had not been put to rest. Therefore, the appellants cannot claim any vested right for allotment of alternative plots. The only right vested in a person under this Scheme is a right to be considered.

12. Furthermore, the case of the appellants was closed in the year 1991 and they made an application for reopening of their case in the year 1994. Admittedly, till December, 2009 they slept over their rights and failed to take any steps, nor did they enquire about the fate of their representation made in 1994. Even after 2009, the appellants approached this Court only in the year 2014. This shows the lackadaisical attitude of the appellants. They slept over their rights and cannot now be permitted to benefit from the case of Shri Narain Singh, who diligently followed his representation upon the rejection of his application for allotment of alternative plot. There is no material

12

placed on record to show that the appellants in the instant case played an active role and made sincere efforts to follow up the matter. The appellants failed to be alert and diligent and are responsible for the loss, if any.

13. We are, therefore, in consonance with the view taken by the learned Single Judge and accordingly dismiss the appeals.


SANGITA DHINGRA SEHGAL, J


CHIEF JUSTICE

MARCH 08, 2017

gr//