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

+ LPA 342/2017 & CM Nos.17333-35/2017

% Date of decision : 12th May, 2017

GOLA DEVI

..... Appellant

Through : Mr. N.S. Dalal, Mr. Aman
Mudgal and Mr. Toral
Banarjee, Advs.

versus

GOVT OF NCT OF DELHI

..... Respondent

Through : Mr. Yeeshu Jain and
Ms. Jyoti Tyagi, Advs.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

CM No.17334/2017

1. For the reasons stated in the application, the delay in filing the appeal is condoned.
2. The application is disposed of.

CM No.17333/2017

Allowed, subject to just exceptions.

The application is disposed of.

LPA No.342/2017

1. The appellant assails the order dated 21st February, 2017 dismissing W.P.(C)No.1591/2017 on the ground that the appellant had failed to satisfactorily explain the order passed in previous litigation between the parties. To the extent necessary, we briefly note the relevant facts hereafter.

2. The appellant Gola Devi, an old lady of 84 years, was a land owner whose land had been acquired by the GNCTD for planned development of Delhi. She had applied to the Government of Delhi for allotment of an alternative plot in compliance with the applicable scheme. Inasmuch as this application was not processed, the appellant had filed W.P.(C)No.2589/2014 which was disposed of by the order dated 13th May, 2014 directing as follows :

“(7) This Court has perused the order dated 19.11.2013 and is of the opinion that the present petition can be disposed of on similar terms. Accordingly, the petitioner is directed to file an affidavit with the respondent/Government of NCT of Delhi within a period of three weeks stating inter alia that:-

(i) Her land had been acquired by Govt. of NCT of Delhi for planned development of Delhi;

(ii) She had taken compensation in respect of the acquired land from the Government and has not refunded the said compensation;

(iii) She has not taken back the possession of the acquired land and has not encumbered the same or otherwise dealt with it in any manner;

(iv) The acquisition of the aforesaid land has not been challenged by her before any forum’ (v) She had duly applied to the Government of Delhi for allotment of an

alternative plot.”

3. The period of three weeks granted to the appellant for filing of the affidavit expired in the beginning of June, 2014. Unfortunately, the appellant was unable to file such affidavit which came to be filed only on 7th of August 2014.

4. In view of the delay in filing the affidavit, which was beyond the period granted by the court in W.P.(C)No.2589/2014, by the letter dated 31st October, 2014, the respondent rejected the appellant's case for grant of an alternative plot.

5. Aggrieved by this rejection, the appellant, on 20th February, 2017, filed W.P.(C)No.1591/2017 setting out the ground for delay. It was explained in the writ petition that the appellant had suffered injuries in the backbone due to falling in the bathroom and was undergoing treatment due to which reason she was unable to file the affidavit within the stipulated period.

6. Unfortunately, the documents evidencing the injury and treatment were not filed with the writ petition. In view thereof, by the order dated 21st February, 2017, the Id. Single Judge rejected the writ petition holding that the very foundation of the petition was absent. It was also noted that the petition was filed after more than 2½ years of the impugned order.

7. This dismissal of the writ petition has been assailed by the appellant by way of the present Letter Patent Appeal submitting that

along with the appeal, the appellant has not only enclosed the affidavit which was filed before the respondent but also filed the application being CM No.17335/2017 praying for permission to file additional documents in the nature of medical records of the appellant.

8. We have heard Id. counsel for the parties on both, the application for permission to file additional documents as well as the appeal. In the appeal as well as the application, the appellant has explained that she is already about 85 years of age suffering from old age problems besides the injuries for which she had received treatment from Rockland Hospital, Delhi.

9. So far as the medical records which are sought to be brought on record are concerned, the appellant has enclosed the prescriptions w.e.f. 29th of April 2014; photocopies of the bills of this date; reports of M.R. of the lumbar spine showing multiple problems in the appellants spine; blood reports reflecting gross deficiencies as well as bills of her admission and treatment. The medical record for the subsequent period goes up to 2nd of August 2016. On 29th April, 2014, it is noted that the appellant's both legs are numb. Before us, the authenticity of the medical record is not really in dispute.

10. It has been urged by Mr. N.S. Dalal, Id. counsel for the appellant that the appellant is handicapped by not only sickness by old age but by complete illiteracy as well in prosecution of her legal rights.

11. We are also inclined to accept the explanation given by the

appellant for inability to produce the medical records along with the writ petition.

12. The medical record adequately explains the circumstances in which delay has occasioned in compliance with the mandate of the order dated 13th May, 2014 passed in W.P.(C)No.2589/2014. The medical grounds of age and illiteracy of the appellant by themselves explain the barriers to accessing justice on the part of the appellant.

13. The delay of about 2½ months in filing the affidavit in terms of the order dated 13th May, 2014 is adequately explained and really deserved to be condoned by the respondent themselves.

14. In view of the above, it is directed as follows :

(i) The documents filed along with CM No.17335/2017 are taken on record. CM No.17335/2017 is allowed.

(ii) The impugned order dated 21st February, 2017 is hereby set aside and quashed.

(iii) The delay in filing the affidavit dated 7th August, 2014 is condoned and the same shall be considered by the respondent in terms of the directions made by the Id. Single Judge in the order dated 13th May, 2014 in W.P.(C)No.2589/2014. Such consideration shall be effected within eight weeks from today and the order passed thereon shall be communicated to the appellant immediately thereafter.

(iv) In case, there is any objection by the respondent on the request of the appellant or any deficiency in her application, the respondent shall inform the appellant of the same within three weeks from today

and give the appellant opportunity to make good the objections/deficiencies within the time permitted to her.

This appeal is allowed in the above terms.

Dasti.

ACTING CHIEF JUSTICE

ANU MALHOTRA, J

MAY 12, 2017

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