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

+ W.P.(C) 9221/2014

RAMESH CHAND Petitioner
Through Ramesh Pathak, Advocate

versus

DELHI DEVELOPMENT AUTHORITY Respondent
Through Ms. Manika Tripathy Pandey with
Mr. Ashutosh Kaushik, Advocates for
DDA.

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Date of Decision: 28th February, 2017

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T**MANMOHAN, J: (Oral)**

1. Present writ petition has been filed seeking allotment of an LIG Flat bearing No. 52, Pappan Kalan, Sector 6, Delhi.
2. The admitted facts of the present case are that on 17th September, 1979, the petitioner made an application for allotment of LIG flat under New Pattern Registration Scheme-1979 (for short "NPRS-1979"). In the year 1985, respondent-DDA gave an option to the registrants of NPRS-1979 to either become members of co-operative group housing society or to register themselves under Self Financing Scheme (for short "SFS").

3. On 14th August, 1985, the petitioner opted for SFS and paid the registration sum of Rs. 8,500/- against a receipt. Thereafter, the petitioner applied for allocation of a flat under SFS on three occasions, i.e., 31st July, 1990, 11th January, 1993 and 21st August, 1996, but was unsuccessful.
4. In September, 1998 it is the petitioner's case that he learnt that he had been allotted a LIG Flat bearing no. 52, Pappan Kalan, Sector 6, Delhi under NPRS-1979. Vide letter dated 30th September, 1998, petitioner requested for issuance of a demand-cum-allotment letter in respect of said LIG flat. However, it is the case of the petitioner that in a public hearing, he was informed that his name had been wrongly included in the draw of lots under NPRS-1979 and that he would be given allotment under SFS. It is the petitioner's case that he was never subsequently allotted a flat either under NPRS-1979 or under SFS.
5. Mr. Ramesh Pathak, learned counsel for the petitioner states that the petitioner has a reasonable and genuine apprehension that his name was never included in any draw of lots held under SFS.
6. He further states that in response to an RTI application, petitioner was informed by the Deputy Director (SFS), Housing, DDA vide letter dated 21st February, 2007 that the record pertaining to the conversion from NPRS-1979 to SFS is not available in his office. Consequently, according to him, petitioner has a doubt as to whether his registration was ever changed from NPRS to SFS.
7. Learned counsel for the petitioner states that in similar facts, a Coordinate Bench of this Court allowed a similar writ petition in the case of ***Ram Kishan Sharma Vs. Delhi Development Authority, W.P.(C) 6422/2010*** decided on ***18th November, 2013***.

8. On the other hand, Ms. Manika Tripathy Pandey, learned counsel for respondent-DDA contends that present petition is barred by delay and laches. She states that though the petitioner had registered himself in 1979 and the conversion to SFS was of the year 1985, yet the petitioner has approached this Court only in 2014.

9. Learned counsel for the respondent-DDA points out that the petitioner had applied for allotment of flat under SFS in various draw of lots but no allotment was made. Thus, according to her, petitioner was an unsuccessful registrant.

10. She further states that respondent-DDA has a policy that once a conversion from NPRS to SFS is allowed, no second conversion can be allowed thereafter. Consequently, according to her, as the petitioner's registration had been converted from NPRS-1979 to SFS in 1985, there was no question of petitioner being allotted an LIG Flat under NPRS-1979 in September, 1998 and the allotment if any was vitiated by mistake.

11. Learned counsel for respondent-DDA emphasises that since the allotment under the SFS had closed on 31st March, 2002, petitioner is not entitled for allotment of any flat now.

12. In rejoinder, learned counsel for the petitioner submits that the present writ petition is not barred by delay and laches. He states that as the petitioner and his son were unwell between September, 2007 and 2011, the present writ petition could not be filed earlier. In support of his submission, he relies upon the judgment of the Division Bench in ***Delhi Development Authority Vs. Mahinder Pal Sikri, LPA No. 743/2013*** decided on **28th November, 2013** wherein it has been held that no hard and fast rule can be laid down with regard to delay and laches and every case has to be decided

on its own facts.

13. Having heard learned counsel for the parties, this Court is of the opinion that present writ petition is barred by delay and laches inasmuch as the conversion of registration from NPRS-1979 to SFS had taken place in 1985 and the petitioner had participated in three draw of lots under SFS on 31st July, 1990, 11th January, 1993 and 21st August, 1996. Consequently, if the petitioner had any grievance with regard to non-inclusion in any of the draw of lots under SFS, the same should have been raised within a reasonable time and not eighteen years later from the last draw of lots.

14. In any event, the SFS scheme had admittedly closed on 31st March, 2002, whereas the present writ petition has been filed twelve years later. The judgment of the Division Bench in *Mahinder Pal Sikri* (supra) offers no assistance to the petitioner as it only states that every case has to be decided on its own peculiar facts. In the present case, there is no reason to condone the delay of such a long period of time.

15. Further, the judgment in *Ram Kishan Sharma* (supra) is also of no help to the petitioner as in the said case no demand had been raised for allowing conversion from MIG to SFS category of flat and no amount had been deposited by the applicant therein. Further, from the official noting of the file in the said case, it was apparent that applicant's conversion from MIG to SFS had never been allowed. However, in the present case, it is an admitted position that petitioner's conversion had been allowed and after deposit of conversion money, the petitioner had participated in three draw of lots under SFS.

16. Though the petitioner in rejoinder tried to justify delay from September 2007 onwards on some medical grounds, yet this Court is of the

view that between 2002 (date of closure of SFS) and September 2007, the petitioner had sufficient time to approach this Court.

17. From the pleadings on record, it is also apparent that the petitioner's cause of action for allocation of LIG flat bearing Flat No. 52, Pappan Kalan, Delhi arose in September 1998 when he came to know that he had been allotted the said flat. If the petitioner was of the view that the demand-cum-allotment letter had been unreasonably withheld, he should have approached this Court within a reasonable period of time and not sixteen years later from the date of knowledge of allotment.

18. Consequently, present writ petition is dismissed being barred by delay and laches.

MANMOHAN, J

FEBRUARY 28, 2017

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