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

+ **W.P.(C) 10679/2016**

SHRI JAI BHAGWAN

..... Petitioner(s)

Through: Ms. Toral Banerjee, Adv. for
Mr. N.S. Dalal, Adv.

versus

LAND & BUILDING DEPARTMENT

..... Respondent

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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06.03.2017

1. Mr. Yeeshu Jain, learned counsel for the respondent states, he would like to argue the matter without filing the counter-affidavit by relying on the judgment of the Division Bench of this Court in the case of ***Government of NCT of Delhi v. Jangli Ram and ors LPA No. 112/2015 decided on July 3, 2015.***

2. The present petition has been filed by the petitioner with the following reliefs:-

“Therefore, on the facts and in the circumstances of the case, it is most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to:-

(i) Issue an appropriate writ, order or direction thereby directing the respondent to decide the application bearing File no.F.31(45)16/89/L&B/Alt., which has not been decided for the last 27 years;

(ii) Issue an appropriate writ, order or direction thereby directing the initiation of action against the respondent for not deciding the application for such a long period;

(iii) Award costs of the present writ petition in favour of the petitioner and against the respondent;

(iv) Pass any such other or further orders as this Hon'ble Court may deem fit and proper in the facts and in the circumstances of the case, in favour of the petitioner and against the respondent."

3. From the petition, it is noted and contended by the learned counsel for the petitioner that an Award bearing No. 48/1986-1987 was announced and the land of the father of the petitioner was acquired. On April 4, 1989 the father of the petitioner moved an application for allotment of alternative plot.

4. She states that in the year 1997, the Authorities asked for submission of the report from LAC and the LAC submitted its report way back in the year 1997. On April 13, 2005, the father of the petitioner died, and the petitioner vide letter dated July 21, 2008 informed the Authorities that his father has died. Along with the letter, the petitioner submitted a copy of the death certificate of his father and made a request to the Authorities to decide the application of the father at the earliest. She states on June 6, 2016, the petitioner submitted an application in the office of the respondent thereby

asking the respondent to include the name of the father of the petitioner/petitioner in the seniority list.

5. She also states, the petitioner has submitted a reminder dated September 1, 2016 in the office of the respondent but no reply has been received. It is her case that even after 27 years, the application submitted by the father has not been decided. She would submit that the petitioner has been pursuing the application with the Authorities but unfortunately they have not acceded to the request of the petitioner, which has compelled the petitioner to approach this Court.

6. The facts as narrated above, shows that the application was filed for the first time on April 4, 1989. The father of the petitioner died on April 13, 2005. Between 1989 and 2005, or for that matter after 1997 for more than eight years, no steps have been taken by the father of the petitioner on the application. Even the petitioner has informed the death of his father only on July 21, 2008 i.e after three years, after which there was a lull till 2016 i.e for eight years when the petitioner submitted an application to include the name of the father of the petitioner in the seniority list, which was followed by a subsequent representation on September 1, 2016.

7. Mr. Jain is justified in relying upon the judgment of the Division

Bench in the case of ***Government of NCT of Delhi v. Jangli Ram and ors***

(*supra*), wherein the Division Bench has held as under:-

11. We have recently in Ramwati Vs. Government of NCT of Delhi MANU/DE/2387/2014 held that there is an element of urgency and rehabilitation in the scheme for allotment of alternative plots and finding the petitioner therein to have filed the writ petition after a delay of thirteen years, upheld the order of dismissal of writ petition. 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.

12. In our view the claim of the respondent No.1/ writ petitioner in the writ petition filed in July-August, 2013 for alternative land in lieu of land which was acquired in 1986 i.e. nearly 27 years prior to the filing of the writ petition and application for which was closed in the year 1992 i.e. 21 years prior to the filing of the writ petition, was clearly barred and ought not to have been ordered to be considered.

13. As far as the reasoning given by the learned Single Judge is concerned, though in the light of the above, need is not felt to

deal therewith but we may observe that in Raj Karan (supra) the Division Bench of this Court finding the applicant to have, after closure of his case, to have remained quiet and to have gone into deep slumber and having been not diligent in pursuing his case for allotment of alternative land and further finding the scheme to be not permitting reopening of a closed matter, held the applicant to be not entitled to any relief. In Smt. Veerwati and Narain Singh (supra) to which one of us i.e. Justice Rajiv Sahai Endlaw was a party, the application for reopening of the closed case had been entertained and inspite of being diligently pursued, no decision thereon had been taken and immediately whereafter the applicants had approached the Courts; in the said facts, Raj Karan (supra) was distinguished by holding that while the applicant in Raj Karan had not pursued the matter, the applicant in Smt. Veerwati and Narain Singh had been pursuing the matter. The facts of the present case are akin to that of Raj Karan rather than of Veerawati and/or Narain Singh. The learned Single Judge, we respectfully state, did not notice the said distinction. The reasoning in the impugned judgment thus cannot be upheld.”

8. The aforesaid findings are squarely applicable to the facts of this case.

It is seen 27 years have elapsed from the date of publication of the Award or 24 years from the date of submission of the application by the father of the petitioner. The father during his lifetime till 2005 or the petitioner till 2008 and thereafter till 2016, has not cared to pursue the application. The petitioner is not entitled to the reliefs as prayed for in the present petition. The same is dismissed. No Costs.

V. KAMESWAR RAO, J

MARCH 06, 2017/ak