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

+ W.P.(C) 11128/2016

PREM KALA

..... Petitioner

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 appearing for the respondent states that he would like to argue the matter without filing the counter-affidavit by relying upon the judgment of the Division Bench of this Court in the case of ***Govt. of NCT of Delhi v. Jangli Ram & Ors. in LPA 112/2015*** decided on 3rd July, 2015.

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

“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 of*

the petitioner for allotment of an alternative plot bearing File No.F.32(11)70/89/L&B/Alt., within a time bound period;

- (ii) Issue an appropriate writ, order or direction thereby directing the respondent to pay a sum of Rs.10.00 Lacs to the petitioner as damages for not deciding the application of the petitioner within a reasonable time;*
- (iii) Issue an appropriate writ, order or direction thereby directing the respondent to initiate appropriate action against the officials concerned, who failed to act and decide the application of the petitioner within a reasonable time;*
- (iv) Award costs of the present writ petition in favour of the petitioner and against the respondent;*
- (v) Pass any such other or further as this Hon'ble Court may deem fit and proper on 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 also contended by learned counsel for the petitioner that petitioner submitted an application dated 21st April, 1989 for allotment of alternative plot in lieu of acquisition of the land of the petitioner situated within the revenue estate of Village Mohd. Pur, Munirka, New Delhi. In the year 2011 a Public Notice appeared in the Newspaper 'Navbharat Times' whereby the respondent called for filing of the objections from the persons, whose names did not appear in the Seniority List prepared by the authorities. The petitioner submitted the objections / application regarding non-appearance of her name in the Seniority List on 21st October,

2011. Learned counsel for the petitioner also contends that between 2011 and 2016, the petitioner has been approaching the respondent, but no favourable decision has been taken by the respondent in her favour. She also states that the petitioner submitted a reminder in the office of the respondent for deciding the application which remained undecided.

4. The facts as narrated above shows the application was filed in the year 1989. It was only in 2011, pursuant to a Public Notice appeared in the Newspaper, the petitioner submitted an application for including her name in the Seniority List, i.e., after almost 22 years. In other words, for 22 years the petitioner did not pursue the application filed by her in the year 1989. Even after 2011 till 2016 except saying that she has been pursuing her case with the respondent, no evidence has been placed on record in that regard.

5. Mr. Jain is justified in relying upon the judgment of the Division Bench of this Court in *Jangli Ram & 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.”

6. The aforesaid findings are applicable to the facts of this case. This court is of the view that the petitioner is not entitled to the reliefs as prayed for in the present petition.

The petition is dismissed.

V. KAMESWAR RAO, J

MARCH 06, 2017/jg