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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9733/2017 & C.M. No.39607/2017

RAJ BALA AND BALA DEVI

..... Petitioner

Through Mr.Brajesh Kumar Singh, Mr.Amit
Pratap Shaunak and Mr.Saurabh
Agarwal, Advocates.

versus

UNION OF INDIA OF ORS.

..... Respondents

Through Mr.Vivekanand Mishra, Advocate for
R-1.
Mr.Dhanesh Relan and Ms.Gauri
Chaturvedi, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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21.11.2017

Petitioner is aggrieved by the letter of rejection dated 05.01.2016 wherein the application seeking allotment of alternate plot had been declined. It had been declined for the reason that it was time barred.

On advance notice, learned counsels for respondents have put in appearance. They seek time to file counter affidavit.

The only defence of the respondents is that this petition is time barred. The same defence has been considered in various other petitions. Counter affidavit is not necessary. This petition is being disposed of today itself.

Record shows that the land of the petitioner had been acquired in the year 2002 and compensation for the acquired land was granted in favour of the petitioner on 02.08.2002. Application for allotment of alternate plot was to be filed within one year from the date of receipt of compensation i.e. on or before 01.08.2003; it was submitted on 23.09.2003 i.e. after a delay of 52 days. Case has been rejected only on this count. Merit of the case was not considered.

This Court had an occasion to consider this aspect in a case reported as 140(2007) DLT 474; **Simla Devi vs. Secretary & Ors** wherein a delay of four months had been condoned. Similarly, a Division Bench in the judgment reported as 226 (2016) DLT 269 **Government of NCT of Delhi Vs. Poonam Gupta** had held that if the petitioner otherwise has a case on merits, delay should not come in his way if justifiably explained.

Noting the ratio of above noted propositions as also the facts of the instant case, the Court is of the view that the case of the petitioner stands on a deserving footing and as such the delay of 52 days in filing the aforementioned application is condoned.

Accordingly, the rejection letter dated 05.01.2016 is set aside. The case of the petitioner be considered on merits and his application seeking allotment of an alternate plot be decided as per seniority. Petition disposed of in the above terms.

INDERMEET KAUR, J

NOVEMBER 21, 2017/ndn