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

+ LPA 494/2018

Date of decision: 29th August, 2018

MOOL SINGH & ANR

..... Appellant

Through: Mr. Rakesh Kumar Khanna, Sr. Adv.
with Ms. Drishti Singh Rathore &
Mr. Rakesh Saini, Advs.

Versus

LT GOVERNOR OF DELHI & ORS

..... Respondents

Through: Ms. Sangita Rai, Adv. With
Mr. Pradeep Singh Tomar, Adv. for R-1, 3 to 7
Ms. Ruchi Jain, Adv. with Mr. Sarfaraz Ahmad,
Adv. for R-2/UOI
Ms. Mini Pushkarna, Standing Counsel for
R-8/EDMC with Ms. Swagata Bhuyan & Ms.
Shiva Pandey, Advs.
Mr. Yeeshu Jain, SC with Ms. Jyoti Tyagi, Adv.
for R-9

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

Rajendra Menon, Chief Justice (Oral)

C.M.No.34934/2018 (exemption)

Allowed, subject to all just exceptions.

C.Ms.No.34933/2018 (delay in filing) & C.M.No.34935/2018 (delay in re-filing)

For the the reasons stated in the applications, delay in filing as well as re-filing is condoned and the applications are disposed of.

LPA 494/2018

1. Seeking exception to an order dated 1st November, 2017 passed by the Writ Court in W.P.(C) No.19564/2005, this appeal has been filed by the appellant, the petitioner sought allotment of plot bearing Khasra No.428/309 measuring 2 bigha 11 biswas. Earlier to this, the petitioner had approached this Court vide W.P.(C) No.4534/1993 in the case of *Balbir Singh & Anr. Vs. Union of India & Ors.* seeking allotment of land under the 20-Point Programme. Claiming to be landless worker belonging to the Scheduled Castes/Scheduled Tribe category. However, in spite of the resolution passed on 08.09.1987, when the land was not allotted, at the instance of the appellant as indicated hereinabove in W.P.(C)4534/1993, the matter came to this Court and it was found that Khasra Nos. 50 and 55 which was recommended for allotment to the appellant could not be allotted as it was a common public passage and as it was required for public use the same could not be allotted. The writ Court, therefore, directed that an alternate plot be identified and allotted to the appellant accordingly, petitioner sought allotment of Khasra No.137. However, the said Khasra No.137 also could not be allotted to the petitioner as it was a 'johar' (pond). Accordingly, the earlier writ petition W.P.(C)4534/1993 was disposed of directing the authorities to take an appropriate decision in the matter.

2. When nothing was done, the present writ petition was filed and in the present writ petition, the petitioner staked his claim for allotment of land bearing Khasra No.428/309 in village Babarpur. However, while causing enquiry into the writ petition, the learned writ Court found that the said land is in possession of Municipal Corporation of Delhi [now, East Delhi Municipal Corporation (EDMC)] and there being some dispute with regard to the land which was indicated by the petitioner, it was held that this land could not be allotted and, therefore, in para-11, the following directions were issued:-

“11. In view of the above, respondent nos.1,2&7 are directed to consider the petitioners’ request for allotment of land having regard to the observations made by this Court in the order dated 27.02.2003 passed in W.P.(C) No.4534/1993”

3. Before us, the learned Senior Counsel appearing for the appellant argued that right from the year 1987 after the resolution was passed on 08.09.1987, the appellant has not been allotted the land and now when a plot, i.e., Khasra No.428/309 is identified, a false claim is being made by the EDMC. It is contended that the said plot of land still belongs to the Gram Sabha and the EDMC are encroachers into the land. The appellant wants allotment of land, however, as there is a dispute with regard to right of

EDMC to the land and if the Gram Sabha claims to be the owner of the land, the same has to be resolved between the Gram Sabha and EDMC. At the instance of the appellant, we cannot issue directions for allotment of this land to the appellant when there is a dispute with regard to this land also. That apart, the appellant's right to claim land has been protected and the directions issued in para-11 indicates that the claim of the appellant for allotment as ordered on 27.02.2003 in W.P.(C) No.4534/1993 is required to be considered by the competent authority. That being so, we see no reason to make any indulgence into the matter.

4. The appeal stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 29, 2018
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