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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 86/2016**

**GOVT OF NCT OF DELHI THR SECRETARY (LAND &
BUILDING DEPARTMENT)** Appellant

Through Mr. Yeeshu Jain, Adv.
versus

S TARA SINGH Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **04.07.2018**

CM No. 4717/2016

This is an application for condonation of delay of 149 days in filing of the accompanying appeal.

For the reasons stated in the application, delay in the filing of the appeal is allowed.

LPA 86/2016 and CM No 4715/2016 (stay)

We have heard the counsel for the appellant but do not find any good reason and ground to interfere with the impugned order dated 10.08.2015 passed by the Single Judge setting aside the communication dated 23.07.2014 and requiring the appellant to issue fresh notice to the respondent indicating date, time and venue when the respondent would present himself for personal hearing along with the papers/documents required to be placed before the Recommendation Committee, who then would pass a speaking order.

2. The appellant does not dispute and contest that father of the respondent Late S. Surjan Singh had purchased a parcel of land

located at village Shakurpur Delhi, situated in Kila No.16, Khasra No.28 admeasuring 166 sq. yds vide sale deed dated 12.07.1955. It is also not disputed that this land was acquired vide notification dated 24.10.1961 under Section 4 of the Land Acquisition Act, 1894. Compensation towards acquisition was paid to Late S. Surjan Singh.

3. The appellant had thereafter introduced a scheme for allotment of alternative plots in lieu of acquired land pursuant to announcement made by the Government of India, Ministry of Home Affairs vide their letter No. 37/16/60 dated 02.05.1961.

4. The only contention and objection of the appellant is that the land in question was not mutated in the name of the father of the respondent and hence, the respondent (son) would be ineligible.

5. In our opinion, the said contention must be rejected for the reason that the appellant accepts and admits that Late S. Surjan Singh had purchased the acquired land on 12.07.1955 vide the registered sale deed. Notification under Section 4 of the Land Acquisition Act, 1894 was issued thereafter on 24.10.1961.

6. In the aforesaid factual background, when the ownership of the land of Late S.Surjan Singh is undisputed, we do not have any reason to interfere with the direction of the Single Judge. In the facts of the present case, failure and lapse of late S. Surjan Singh to get the land mutated in his name would be inconsequential and immaterial. Aforesaid requirement of mutation in the facts of the present case would be only ministerial. Mutation are carried out by the Revenue Authority. Mutation does not result in and create ownership, but is evidence of ownership/title.

7. We may clarify that in some cases mutation may be required and necessary as when the ownership of acquired land etc. itself is in debate and doubt.

8. Counsel for the appellant had relied upon the judgment of the Division Bench of the Court in LPA No. 338/2008, Govt. of NCT of Delhi and Anr. vs. Jai Gopal. We do not find that the said judgment in any way supports the appellant. LPA filed by the Govt. of NCT of Delhi was dismissed. In the said decision, the Court had noticed requirements of the scheme for allotment of site. Eligible person should have purchased the acquired land prior to Section 4 Notification. Thus, the required sale deed should have been mutated in the revenue records on the date of the application.

9. The appellant would comply with the directions given in the impugned order within the outer limit of two months from today.

10. With the aforesaid direction, the appeal is disposed of, with no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JULY 04, 2018/b