

#60

IN THE HIGH COURT OF DELHI AT NEW DELHI

**Judgment delivered on:
07.08.2018**

W.P.(C) 8260/2018

RAJ KUMAR

.... Petitioner

versus

**THE COMMISSION (HOUSING LIG), DDA
AND ANR.**

... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ankan Suri, Advocate

For the Respondents : Mr. Pawan Mathur, Standing Counsel for DDA

CORAM:

**HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
J U D G M E N T**

SIDDHARTH MRIDUL, J (ORAL)

C.M. No.31649/2018 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 8260/2018

1. The present writ petition under Article 226 of the Constitution of India, prays as follows:

“b) direct the respondents to cancel/withdraw the cancellation letter dated 20.02.2004 and refund letter dated 11.03.2004 whereby the respondents had cancelled the allotment in favour of the appellants.

c) direct the respondents to issue a fresh demand-cum-allotment letter to the appellant for a flat in the same location and of the same value as the previously allotted flat.”

2. A plain reading of prayer clause (b) extracted hereinabove, leaves no manner of doubt that, the action of the DDA impugned in the present proceedings, is in relation to a cancellation letter issued on 20.02.2004 and refund letter issued on 11.03.2004, whereby they had cancelled the allotment of the subject flat, made in favour of the petitioner’s deceased mother.

3. Upon a perusal of the petition paper book, it emerges that the petitioner had earlier instituted a consumer complaint being case No.45/2012, titled as ‘*Sh. Raj Kumar vs. The Commissioner (Housing*

LIG) & Anr.” dated 03.02.2012, before the District Consumer Disputes Redressal Forum-II, New Delhi-110016 (hereinafter referred to as ‘Consumer Court’), which was rejected by the judicial authority vide order dated 15.05.2017, on the solitary ground that the same is “highly time barred”.

4. It is an admitted position that, the said order dated 15.05.2017 of the Consumer Court was carried in the appeal before the State Commission, Delhi in First Appeal No.337/2017, titled as ‘*Sh. Raj Kumar vs. The Commissioner (Housing LIG) & Anr.*’ and was dismissed by the State Commission vide order dated 08.11.2017, with an observation that, the petitioner’s case “has been rightly dismissed on the point of limitation”.

5. The said order dated 08.11.2017 has not been carried in an appeal before the National Consumer Disputes Redressal Commission and has since attained finality.

6. Learned counsel appearing on behalf of the petitioner would state that, even after the issuance of the letters impugned in the present petition, he has addressed communications to the DDA and has received

reply thereto, and in view of the foregoing, the present petition is within time.

7. I do not agree with the submission made on behalf of the petitioner.

8. In the present case, it is an admitted position that, prayer clause (B), which is the principal prayer, relates back to the year 2004, which is 14 years prior to the institution of the writ petition.

9. It is further observed that, there is no cogent explanation for the delay incurred on behalf of the petitioner. The plea urged on behalf of the petitioner, that the delay has been occasioned on account of the repeated representations made by him to the respondents and their replies thereto, is not tenable, inasmuch as, repeated representations cannot entitle a party to agitate a dead or stale claim.

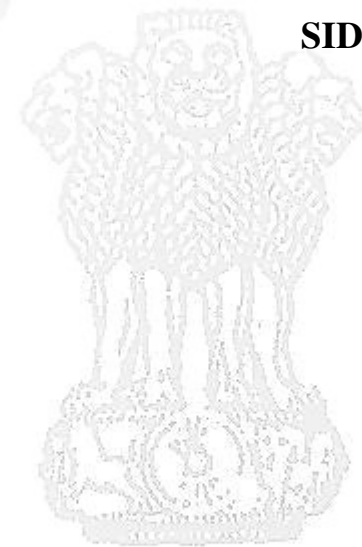
10. It is trite to state that this Court in writ jurisdiction under Article 226 of the Constitution of India does not come to aid of a litigant who awakes from deep slumber belatedly at the eleventh hour. [**Ref: Ziauddin Hassan vs. University of Delhi & Ors. in LPA No.737/2017**]

11. In view of the foregoing discussion, the present petition is dismissed since the same is hopelessly barred by delay and latches.

12. The petition is disposed of accordingly.

AUGUST 07, 2018
as

SIDDHARTH MRIDUL
(JUDGE)



न्यायमेव जयते