

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

Date of Order: August 23, 2018

+ W.P.(C) 8488/2018 & C.M. 32608/2018

SHRI JAI BHAGWAN Petitioner

Through: Mr. Naresh K. Daksh, Advocate

Versus

GOVT. OF N.C.T. OF DELHI Respondent

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In the first round of litigation, petitioner had challenged rejection of application filed by *Shiv Charan* for allotment of alternate plot in lieu of acquired land and the said writ petition was dismissed on 21st July, 2016 vide order *Annexure P-10* while observing that *Chhotu Ram*, who was entitled to apply for allotment of alternate plot, had not applied for allotment and so, rejection of application of his son-*Shiv Charan* was justified. Review sought by petitioner was not pressed with liberty to take appropriate action, as advised in law.

2. Counsel for petitioner submits that review was sought on the ground that from information received under *Right to Information Act, 2005*, petitioner had learnt that the application (*Annexure P-3*) by *Chhotu Ram* for allotment of alternate plot in lieu of acquired land, was filed way

back in March, 1982. It is a matter of record that possession of the subject land was taken way back in the year 1987 and application filed by *Shiv Charan* was dismissed because the entitlement to allotment of alternate plot was of *Chhotu Ram*. Counsel for petitioner relies upon a Division Bench decision in *Trilok Chand Tyagi Vs. Delhi Development Authority & ors.* 68 (1997) DLT 544 (DB) to submit that *Chhotu Ram*'s application for allotment of alternate plot ought to be considered. Attention of this Court is drawn to office noting (*Annexure P-5*) colly to submit that *Chhotu Ram*'s application for allotment of alternate plot was kept pending in the year 1986 to await the outcome of pending litigation, which was not initiated by said *Chhotu Ram*.

3. The opposition to this application by counsel for respondent is on the ground that this petition is badly hit by delay and latches. It is pointed out that records pertaining to application of *Chhotu Ram* are not available.

4. Upon hearing and on perusal of impugned order (*Annexure P-1*) and the material on record, I find that though *Chhotu Ram* had applied for allotment of alternate plot in the year 1982 and as per office noting, the consideration of his application was deferred on 18th January, 1986 to await the outcome of pending litigation and as per the copy of certificate of 1st October, 2007 on record, the possession of subject land stood transferred to the concerned department. To say the least, *Shiv Charan* was ill advised to file application for allotment of alternate plot, as the application of the land owner only i.e. *Chhotu Ram*, whose land stood acquired, was maintainable. By pursuing the application filed by *Shiv Charan*, the right which was available to *Chhotu Ram* stands defeated as

as after an inordinate delay of more than three decades, it is unreasonable to now call upon respondent to consider application of *Chhotu Ram* for allotment of alternate plot. Supreme Court in *Pepsu Road Transport Co. Patiala vs. S.K. Sharma & Ors.*, (2016) 9 SCC 206 has reiterated that denial of relief on the plea of delay and laches is justified in a case where there is no satisfactory explanation for the delay occasioned. In the instant case, inordinate delay is not explained. Since the records pertaining to the application filed by *Chhotu Ram* are not available, reliance placed by petitioner's counsel upon Division Bench decision in *Trilok Chand Tyagi (Supra)* is misplaced, as in the said case, two applications were made by same persons, whereas in the instant case, the second application has been filed by son of *Chhotu Ram*, which was clearly not maintainable.

5. In the light of aforesaid, this petition and the application are dismissed being hit by delay and laches.

**(SUNIL GAUR)
JUDGE**

AUGUST 23, 2018

r