

\$~11

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

Date of decision: 13th March, 2018

+ W.P.(C) 9106/2016 & CM No.36875/2016

MAMAN SINGH Petitioner

Through: Mr.Naresh K. Daksh, Adv.

versus

GOVT. OF NCT OF DELHI Respondent

Through: Ms.Ruchika Rathi, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (Oral)

1. Vide the present petition, the petitioner has prayed for quashing of a decision dated 04.12.2015 taken by the respondent whereby the respondents have decided not to consider the petitioner's pending application.

2. Learned counsel for the petitioner submits that the petitioner has obtained the aforesaid decision dated 04.12.2015 only under the provisions of RTI and upon learning about the same, he has preferred the present writ petition seeking a direction *inter alia* to the respondent to consider his application for allotment of alternative plot. The petitioner also seeks a direction to the respondent to allot him a plot of the size as

per his eligibility in accordance with the Rehabilitation Policy, 1961.

3. The facts as set out in the petitioner are that on 19.09.1986, 52 bighas of land, in Village Palam, Delhi, in which the petitioner had a 1/24 share, was acquired by the respondent for planned development of Delhi. The possession of the said land was taken from the petitioner on 13.10.1986 and the compensation thereof was paid to him on 22.12.1986. It is the petitioner's case, that after completion of acquisition proceedings, the petitioner submitted an application dated 22.04.1987 for grant of an alternative plot in accordance with the Rehabilitation Policy of 1961 issued by the respondent.

4. The further contention of the petitioner is that since the petitioner was owner of some more land in the village which was likely to be acquired soon for the planned development of Delhi, the petitioner moved an application dated 29.01.1992 requesting the respondent to keep his initial application in abeyance so that he could be allotted an alternative plot, on basis of the total acquired land.

5. Learned counsel for the petitioner draws my attention to an undated letter written by one Mr.M.L. Raina, Assistant Director (P)/Alternate plot of the respondent to contend that in reply to his application dated 29.01.1992, the petitioner was informed that his case '*had been considered and kept in abeyance as requested by him*'. The aforesaid communication was followed by another letter dated 23.03.1992 by the Joint Secretary, Land and Building of respondent wherein the petitioner was again informed with reference to his

application dated 29.01.1992 that based on his request for keeping his case pending till the acquisition of his remaining land, his case had been closed and he was advised to approach the respondent's office '*after his remaining land is acquired*'. He further submits that the remaining land of the petitioner was acquired in the year 1998 and he was paid the compensation thereof in 1999 and after repeated visits to the office of the respondent, he finally submitted an application dated 23.11.2005 along with a supporting affidavit, requesting the respondent to reopen his file for grant of an alternative plot. He submits that till date, the respondent has not taken any decision on petitioner's representation even though the facts clearly show that the petitioner's initial application had been kept in abeyance by the respondent themselves in the year 1992 itself.

6. Learned counsel for the petitioner has also relied on certain file notings obtained by him from the office of the respondent under the provisions of Right to Information Act, to contend that for almost 10 years, the respondent was considering as to whether the petitioner's original application ought to be reopened, but, finally on 04.12.2015, the respondent have taken a wholly arbitrary decision not to reopen the petitioner's case, compelling the petitioner to approach this Court.

7. Learned counsel for the petitioner submits that in view of the admitted fact that the petitioner's application was kept in abeyance and, no decision thereon has been taken till date, the present writ petition is entitled to succeed.

8. On the other hand, Ms.Ruchika Rathi, learned counsel for the

respondent opposes the petition and submits that the petitioner had approached the respondent after an inordinate delay of more than 13 years and had admittedly made the representation only in the year 2005. She further submits that on 23.03.1992, the respondent had closed the case of the petitioner under intimation to him, and therefore, there was no justification or reason as to why the respondent should now reopen or reprocess the petitioner's application after even an inordinate delay. She further submits that as per procedure, it was incumbent upon the petitioner to immediately reapply for allotment of alternate plot after his entire land had been acquired and that too within a period of one year from the date of receipt of compensation.

9. Having heard learned counsel for the parties, I find that once the petitioner had made an application dated 22.04.1987 for alternate plot and subsequently requested the respondent to keep the said application in abeyance till acquisition of his entire remaining land, the respondent was free to either accept or reject his request for keeping the said application in abeyance. However, once the respondent themselves decided to keep the petitioner's original application in abeyance in March , 1992 and that too with a specific observation that the petitioner could approach the respondent after his entire remaining land was acquired, it was incumbent upon the respondent to consider the petitioner's original application which had been kept in abeyance by the respondent themselves. The respondent ought to have taken a decision thereon as per their own policy and could not sit over the application of the

petitioner, despite repeated requests made by him from 2005 onwards. In my considered view, it was incumbent upon the respondent to pass an order on the petitioner's pending application dated 22.04.1987 which had been kept in abeyance by the respondent themselves.

10. The action of the respondent's in not taking any decision on the petitioner's pending application is wholly unsustainable and the respondent's decision dated 04.12.2015 not to reopen the petitioner's application is quashed.

11. The respondent is accordingly directed to take a decision on the petitioner's application dated 22.04.1987 as also his subsequent application, within 3 months by passing a reasoned and speaking order. In view of the admitted position that the petitioner's initial application dated 22.04.1987, which was filed well within time, has not been disposed of till date, it is deemed appropriate to direct the respondents to give a personal hearing to the petitioner, before passing any final order. It is further directed that as and when the respondent gives a notice to the petitioner to appear before the concerned officer of respondent, it will be incumbent upon the petitioner to do so to obviate any plea regarding non-service of the notice. Any notice in this regard may be sent to the petitioner and to his counsel.

12. The petition is allowed in the aforesaid terms. The pending application also stands disposed of.

13. Needless to say that in case the petitioner is aggrieved by any order passed by the respondent, it will be open for him to take legal

recourse as permissible under law.

REKHA PALLI, J

MARCH 13, 2018

gm

