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

Date of decision : 02.04.2018

+ LPA 534/2016 & CM APPL. 38980-38981/2017

SULTAN SINGH (SINCE DECEASED THR LRS)

Appellant

Through: Mr. Priyadarshi Banerjee and
Mr. Vijay Singh, Advocates.

versus

GOVT OF NCT OF DELHI & ORS Respondents

Through: Mr. Naushad Ahmad Khan,
ASC (Civil), GNCTD with
Mr. Devesh Dubey, Advocate
for R-1 to 4.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

HON'BLE MR. JUSTICE S. RAVINDRA BHAT (ORAL)

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1. The appellant's grievance is that the writ petition was summarily rejected on the ground of laches. It is contended that the learned Single Judge overlooked the crucial and relevant facts pertaining to the recognition of the identical rights in favour of the other third party.

2. In view of the order, which this Court proposes to pass, a detailed discussion of the facts or the merits of the case is not required. It is however essential to recapitulate the bare essential facts that the appellant (since deceased), now

represented through the legal representatives, was the owner of 5 biswa land in Khasra No. 63, Village Holambi Khurd, Delhi. Concededly, the said land was deemed essential for a public purpose by the Gaon Sabha i.e. for construction of a road in the village. Alike late Sultan Singh, there were others, who owned lands in the village, which were also taken over by the Gaon Sabha contemporaneously, in view of the same resolution of 1976. These were lands belonging to three brothers i.e. Balbir Singh, Randhir Singh and Chand Rup. On 25.10.1985 the Gaon Sabha issued a resolution recommending that the land owners (the aggregate of whose lands measured 18 biswa and was used for construction of the village road) ought to be compensated with land. It recommended that each one of the land owners i.e. late Sultan Singh, the three brothers and the individuals concerned, be given 5 biswa each (aggregating 25 biswa). This resolution was approved by the Block Development Committee on 03.02.1992. Records also disclose that sometime in 1994, the appropriate Government i.e. the Government of NCT of Delhi acted upon the approved recommendations and, in fact, allotted 15 biswa (5 biswa each to the three brothers). The resolution dated 03.02.1992, for an inexplicable reason, however, did not specifically refer to late Sultan Singh or the other third party, whose lands were taken over for the construction of the village road. Consequently, these two individuals slipped between two stools as it were and neither the

recommendations of the Gaon Sabha were approved or rejected nor were they given possession of any land.

3. Apparently, the three brothers (Balbir Singh, Randhir Singh and Chand Rup) laid their claim to the unallotted land (i.e. the total 10 biswa of which the Gaon Sabha had recommended 5 biswa to be allotted to Mr. Sultan Singh and the balance to the other land owners). The rejection of their request led to filing of a writ petition, which was allowed. On this, the Government of NCT of Delhi approached this Court by way of Letter Patents Appeal (LPA No.18/2008), which was allowed on 20.03.2012. It is however a matter of record that the Government of NCT of Delhi in its application (CM No.13924/2009) had averred as follows:-

“1. It is respectfully submitted that in terms of the resolution dated 25.10.1985, allotment of 5 Biswas of land to each of the following persons namely, S/Shri Chand Rup, Balbir Singh, Randhir Singh, Mohan and Sultan was recommended in Khasra No.334/2, Village Holambi Khurd, Delhi.

2. It is respectfully submitted that the said allotment was endorsed by Village Development Committee, Delhi Administration vide Resolution No.1 dated 3.2.1992. It is respectfully submitted that in a nutshell 18 biswas of land belonging to 5 persons namely S/Shri Balbir Singh, Chand Rup, Mohan, Randhir Singh and Sultan in Khasra No.63 falling in the Lal Dora was exchanged with 25 biswas (5 Biswas each) of land in Khasra No.334/2 falling in the extended Abadi.

3. The appellant respectfully submits that with reference to the aforesaid resolution No.1 dated 3.3.1992, Lt. Governor (Delhi) approved exchange of land measuring 18 biswas out of Khasra No.63 (Abadi Deh/Lal Dora) belonging to S/Shri Balbir Singh and his two brothers Ranbir Singh and Chand Rup sons of Shri Dhani Ram with land measuring 15 biswas out of Khasra No.334/2 (05 biswa each to S/Shri Balbir Singh, Randhir Singh and Chand Rup) vesting in Gaon Sabha Holambi Khurd in terms of provisions of the Rule 185 of the Delhi Panchayat Raj Rules, 1959.

4. to 9. xxx xxx xxx

10. That it is reiterated that, as stated herein above, land admeasuring 18 biswa belonging to 5 persons including the respondents herein was taken for construction of road and the Gaon Sabha in exchange of the said land allotted 5 biswa of land each to Sh. Mohan, Sh. Sultan, Sh. Balbir Singh, Sh. Randhir Singh and Sh. Chand Rup, i.e. all the 5 persons were entitled to 25 biswa of land in whole.”

4. While allowing the Government of NCT of Delhi's appeal the Division Bench observed as follows:-

“12. That though of the 25 bighas of land agreed to be given vide Resolution dated 25.10.1985, in lieu of 18 biswas taken for construction of road, 10 biswas still remains with the appellants and further though the respondents 1 to 3 on the one hand and the respondents 4 to 6 on the other hand claim adversarially thereto but the said disputes cannot

be adjudicated in these proceedings. It cannot also be lost sight of that such was not the basis of the claim of the respondents 1 to 3 in the writ petition from which this appeal arises.

13. Though the respondents 4 to 6 seek a direction for being put into possession of the said 10 biswas of land but neither can such a direction be given in this appeal arising from a writ petition filed by the respondents 1 to 3 nor can such a direction be given in view of the adversarial claim of the respondents 1 to 3 on the one hand and the respondents 4 to 6 on the other hand. It cannot also be lost sight of that the respondents 4 to 6 are making such claim after long delay. Such disputes are best left to be adjudicated in a properly constituted proceeding, if any maintainable.”

5. The learned Single Judge in this case declined to interfere and issue the directions sought holding that the appellants had approached the Court after an inordinate and inexplicable delay. The learned Single Judge also suspected the *bona fides* of the litigation voicing the concern that a proxy case was being fought on behalf of the legal heirs of late Sultan Singh.

6. Learned counsel for the appellant relied upon the materials on record and contended that none of the relevant decisions i.e. the Block Development Committee's approving order dated 03.02.1992 or the Government of NCT of Delhi's action in allotting 5 biswa each only to the three brothers can stand a scrutiny of fairness given that late Sultan Singh was displaced from his land and received no consideration in lieu of

the sacrifice required of him. It was contended that the delay in approaching the Court cannot be the sole basis for endorsing the silence of the Government of NCT of Delhi which itself amounts to discrimination, especially when the Government of NCT of Delhi in its appeal had recognised the rights of late Sultan Singh.

7. Learned counsel for the Government of NCT of Delhi reiterated the submissions made before the learned Single Judge and contended that the view expressed i.e. the appellants approached the Court in a highly belated manner and that in all probabilities this was proxy litigation, were reasons enough to reject their claim.

8. It is apparent from the narration of facts that the appellants i.e. legal heirs of late Sultan Singh are espousing the cause essentially based on discrimination. Undoubtedly, the writ petition was filed after a considerable period of time. At the same time, this Court is alive to the situation that the possession of land in lieu of the lands taken over (without a valid acquisition by the Government of NCT of Delhi for a public purpose) was compensated, at least so far as the other land owners i.e. the three brothers are concerned. Equally, the Government of NCT of Delhi was alive to the situation when it did not contest Sultan Singh's rights in 2009 when he did approach this Court in the impleadment application in LPA 18/2008. This cause too was espoused by the Government of NCT of Delhi. In these circumstances, the Court is of the

opinion that the overall interest of justice demands that the Revenue Authorities should re-examine the matter, and pass a speaking order distinguishing the petitioner's case, if, any justifiable reason exists, in denying them a treatment similar to what was given to the other land owners (especially the three brothers i.e. Balbir Singh, Randhir Singh and Chand Rup). A direction is accordingly issued to the Government of NCT of Delhi to re-examine the matter afresh. The Lieutenant Governor shall look into the matter and pass appropriate orders having regard to the record within six weeks from today after considering the appellant's or his counsel's submissions in this case. Such a speaking order shall be directly communicated to the appellants. All rights and contentions of the parties are reserved.

9. In the facts and circumstances of the case, the Court hereby sets aside the impugned order; the appellant is therefore not required to comply the directions of the costs.

The appeal is allowed in the above terms. All the pending applications also stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 02, 2018

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