

\$~12&13

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

+ **LPA 15/2017**

JAGDISH Appellant

versus

GOVT OF NCT OF DELHI & ANR Respondents

LPA 19/2017

JAGBIR SINGH Appellant

versus

GOVT OF NCT OF DELHI & ORS Respondents

Appearance: Mr. Rajiv Kumar Ghawana with Mr. Anirudh Ahuja
and Ms. Akshita Chattwal, Advocates for appellants in both matters.

Mr. B. Mahapatra, Advocate for R-1 in both matters.

Mr. Arjun Pant, Advocate for DDA in LPA-15/2017.

Mr. Dhanesh Relan, Advocate for DDA in LPA-19/2017

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

%

22.01.2018

The appellants' grievance is that their applications for allotment of alternative plot in view of the land acquired (1/9th share of 29 bigha and 13 biswa) in Village Loharheri, New Delhi through Award dated 22.10.1998 was rejected.

The appellants had preferred writ petitions claiming alternative

plot in respect of the acquired land. They relied upon a copy of the certificate dated 10.01.2001 verifying payment of compensation in respect of their share in the suit property. The application for alternative plot was made on 11.02.2005. The request for alternative plot remained pending and its rejection was communicated through letter dated 26.07.2016. That order/letter merely stated that “the case has already been rejected by the Secretary of the Department on 21.04.2005 being time barred”. The Single Judge was of the opinion that the petitioner had approached the authorities as well as the Court after an inordinate delay.

The Court has considered the submissions of the parties. Concededly the application for alternative plot was made on 11.02.2005 - about four years after the issuance of the certificate verifying payment of compensation. The prevailing guidelines and applicable rules require the application to be lodged within a year of obtaining compensation. Thus, the application should have been made sometime in February, 2002. Nevertheless the appellants were not informed about the closing of their case ever and were apparently told about this only in November, 2016. The judgment of this Court in *Government of NCT of Delhi v. Poonam Gupta* (LPA 190/2015, decided on 08.12.2015) notices that the stipulation with respect to time is made for administrative convenience and cannot be invariable as it is not a matter of law.

Having regard to the overall circumstances it is apparent that the respondents too had not communicated the rejection in a timely

manner. In any case there is nothing on the record to show that the respondents had rejected the application for alternative plot on its merit.

During the course of hearing, counsel had stated that the appellants were constrained on account of the chronic and serious illness of their mother and that application was preferred in 2005 after her death.

Having regard to the above factor, and the circumstances, the matter is remitted for reconsideration by the respondents who shall proceed further to evaluate the application for alternative plot on its merits. As far as delay is concerned, the writ petitioners/appellants shall furnish the materials in support of their contention that the application could not be made on account of the medical condition of their mother.

The impugned order is set aside. The appeals are allowed to the above extent. This order in any manner shall not be construed as disposal on the merits of the application for allotment of the alternative plot.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 22, 2018

/vikas/