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

+ W.P.(C) 9564/2017, CM No. 38907/2017

SHRI Y K. BANSAL

..... Petitioner

Through: Mr. Naresh K. Daksh, Adv.

versus

GOVT. OF N.C.T. OF DELHI

..... Respondent

Through: Mr. Yeeshu Jain, Standing Counsel
for L&B

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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01.08.2018

1. The present petition has been filed by the petitioner challenging the decision of the respondent dated September 20, 2017 whereby the request of the petitioner for allotment of alternative plot has been rejected on the ground that the requisite documents have not been submitted by him. It is the submission of the learned counsel for the petitioner that no order conveying the decision has been received by the petitioner. He states, it is pursuant to the RTI application, the petitioner has received the copies of the notings which he has impugned.

2. According to the learned counsel for the petitioner, the land of the petitioner situated in Village Olden Pur, Delhi was acquired vide Award No.64/1974-75 and during the pendency of the acquisition proceedings, the father of the petitioner died. The name of the petitioner was substituted in the records and possession of land was taken over by the respondent and compensation was paid on September 15, 2007. In terms of the Rehabilitation Policy, the petitioner submitted an application bearing No.F30(12)/5173/2008/L&B/ALT with the respondent for allotment of an alternative plot. On April 28, 2014 the petitioner shifted to a new residence. It is the case of the petitioner and urged by the learned counsel for the petitioner that the petitioner submitted a letter to the respondent furnishing his new address and the said letter was duly received in the office of the respondent. He refers to page 44, of the paper book in that regard. He also states, the respondent has sent letters dated August 08, 2016, November 18, 2016, December 23, 2016, March 16, 2017 and May 12, 2017 on the old address calling upon the petitioner to submit certain documents. He states that all the letters appear to have been sent back with the report "*left*". It is his submission that the respondent has sent these letters without verifying that the new address of the petitioner is in their records. On September 14,

2017 the petitioner again shifted his residence and he again submitted a letter to the respondent furnishing his new address, which letter is at page 63 of the writ petition. In September 2017 the son of the petitioner visited the office of the respondent to check the status of the application. He was told that the application had been rejected. It is pursuant thereto, on filing the RTI application that the petitioner has received the documents which he has now annexed along with the writ petition.

3. It is the submission of the learned counsel for the petitioner that even if the respondent wanted the petitioner to submit certain documents, the said communications having been sent by the respondent at old address of the petitioner, despite they having the new address on record, the fault for non submission of the documents cannot be attributed to him. In other words, it is because of this fault of the respondent, the petitioner could not answer the communications sent by the respondent. He states, the petitioner is ready and willing to submit the documents as required by the respondent once again to enable the respondent, consider the application of the petitioner for allotment of alternative plot.

4. Mr. Yeeshu Jain, learned Standing Counsel appearing for the respondent states, counter affidavit has been filed in the Registry on July 30,

2018. As the same is not on record, it has been requisitioned and placed on record.

5. Mr. Yeeshu Jain has drawn my attention to paras 6 and 7 of the counter affidavit which read as under:

“6. That it is submitted that since the petitioner did not furnish the complete documents along with the application and more particularly the payment certificate, the answering respondent issued various letters dated 8.8.2016, 18.11.2016, 23.12.2016, 16.3.2017 and 12.05.2017 to the petitioner to furnish the duly attested revenue records/payment certificate. It is submitted that vide the said letter, it was specifically informed to the petitioner that in case of non submission of required documents, his case would be considered on basis of available documents in the file and no communication would follow in future. The said letters are already annexed with the writ petition.

7. The contention of the petitioner that it informed the answering respondent about the change of address in the year 2014 and the above said letters were sent to the old address is misplaced as the petitioner was also under an obligation to enquire about the fate of its application from the period 2008 to 2017 when the application of the petitioner was rejected for want of documents. It is submitted that before rejecting the case of the petitioner vide letter dated 16.10.2017, the answering respondent even issued a Public Notice in two leading newspapers, one in Hindi and another in English, both dated 29.07.2017 whereby it was duly informed to the applicants to furnish the deficient documents, the details of which were also uploaded on the official website of the answering respondent.”

6. He also states that despite issuance of public notice, to the applicants to rectify the deficiencies, which deficiencies were also uploaded on the

official website of the department, the petitioner did not do the needful.

7. Mr. Yeeshu Jain reiterates that even if the respondent had sent the communications at the old address, the petitioner was required to pursue with the department about the status of the application. He also states, between the period 2014 and 2017, the petitioner did not pursue the application with the department and the petition should be dismissed on the ground of delay and laches. He would rely upon a judgment of the Division Bench of this Court ***LPA 112/2015, Government of NCT of Delhi vs. Jangli Ram & Ors.***

8. Having heard learned counsel for the parties, it is seen that the application of the petitioner was considered by the Recommendation Committee in August 2016, when petitioner had already shifted to his new residence, and information with regard to that was given to the respondent as seen from page No. 44 of the writ petition. Despite the new address being on record, the respondent has sent the five communications at the old address. Even the further change of residence was informed by the petitioner vide his letter received in the department on September 24, 2017. In the absence of any communication from the department at the new address, it can be said that the petitioner was under the *bona fide* belief that

the application of the petitioner is still under process, and even otherwise having not received the five communications, there was no occasion for the petitioner to reply to the communications sent by the respondent and submit the requisite documents as sought for by the respondent through those communications.

9. The plea of Mr. Jain that public notices were issued in the news papers communicating deficiencies in the application of various applicants and also that these deficiencies were uploaded on the website of the department, does not appeal to this Court as the same, may not substitute a written communication to be sent to an applicant, which he generally look forward to. It must be held that the respondent was at fault for not communicating to the petitioner the deficiencies at the new address because of which they could not be removed which resulted in the rejection of the request of the petitioner for allotment of alternative plot. Insofar as the judgment in the case of *Jangli Ram & Ors. (supra)* relied upon by Mr. Yeeshu Jain is concerned, the same is distinguishable on facts, inasmuch as in the said case an application was made by the writ petitioner on November 12, 1987 for allotment of alternative plot. On January 20, 1992 the application was closed. A communication dated February 5, 1997 was sent

by the writ petitioner to the department, stating that he had come to know that the file of allotment of alternative plot had been closed which aspect was concealed by the writ petitioner. Rather a plea was taken that he has learnt from the villagers in the year 2012 that the allotment of alternative plot against the acquired land is being made. The writ petition was allowed in favour of the writ petitioner. In an appeal the Division Bench of this Court noting the fact that after coming to know on February 5, 1997, the petitioner only sought remedy in the month July-August 2013 after nearly 16 years of his communication; also 27 years after the land was acquired in the year 1986 and also after 21 years from the date of closing of the application in the year 1992 has allowed the appeal of the department and set aside the order of the learned Single Judge and dismissed the writ petition on the ground of delay and laches, by imposing cost of Rs.20,000/-.

10. Having noted the aforesaid judgment and concluded that the same is distinguishable, this writ petition needs to be allowed. The respondent is directed to issue a fresh communication to the petitioner on the new address at page 63 of the paper book detailing therein the documents to be furnished by the petitioner within four weeks from today. On receipt of the said communication, the petitioner shall furnish the documents within four weeks

thereafter. The deficiencies in the documents shall be communicated to the petitioner within two weeks. The deficiencies shall be cured by the petitioner within two weeks thereafter. The respondent shall then consider the application of the petitioner within four weeks thereafter and communicate the decision to the petitioner.

11. It goes without saying that if the petitioner is still aggrieved by the order to be passed by the respondent, liberty is with the petitioner to challenge the same in accordance with law. The writ petition is disposed of.

CM No. 38907/2017

Dismissed as infructuous.

V. KAMESWAR RAO, J

AUGUST 01, 2018/aky