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

*Date of Decision: 01.07.2019*

+ LPA 420/2019 with CM No.28812/2019, CM No. 28813/2019 and  
CM No.28814/2019

LAND AND BUILDING DEPARTMENT GOVT OF NCT OF  
DELHI

..... Appellant

Through: Ms. Ruchika Rathi, Adv. with  
Mr. Deepak Biswas, Adv.

versus

LALIT KUMAR

..... Respondent

Through: None.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**D.N. PATEL, CHIEF JUSTICE** (Oral)

**CM No.28814/2019** (*exemption*)

1. Allowed, subject to just exceptions.

**CM No.28813/2019** (*for condonation of delay*)

2. This civil miscellaneous application has been preferred for  
condonation of delay of 347 days in preferring the Letters Patent Appeal.

3. Looking to the reasons stated in this civil miscellaneous application,  
there are reasonable reasons for condonation of delay. We, therefore,  
condone the delay in preferring the LPA.

4. This civil miscellaneous application is allowed and disposed of.

**LPA No.420/2019**

5. This Letters Patent Appeal has been preferred by the original  
respondent in W.P.(C) No.4085/2018. The writ petition was preferred by

the respondent for allotment of plot under Rehabilitation Policy, 1961. This writ petition preferred by the respondent was allowed by the learned Single Judge vide judgment and order dated 24.04.2018 and hence the original respondent has preferred the present Letters Patent Appeal.

### **Factual Matrix**

6. The land in question was owned by father of the respondent (original petitioner). The land in question was acquired on 28.09.2004.
7. Application for allotment of plot was preferred on 28.09.2005, under the Rehabilitation Policy, 1961.
8. The application for getting alternate plot was to be preferred within a period of one year. The alternate plot was not assigned to the respondent because there was delay of a day and the representation preferred by the respondent (original petitioner) was rejected on 08.03.2018.
9. The compensation for the acquisition of the land was paid on 28.09.2004 vide Award No.10/DC (N-W)/2004-05.
10. In view of the Rehabilitation Policy, 1961 alternative plot was demanded by the respondent (original petitioner). As his application for getting alternate plot was rejected because of a delay, the respondent preferred writ petition being W.P.(C) No.4085/2018 which was allowed by the learned Single Judge and hence this LPA has been preferred by the original respondent.

### **Reasons**

11. Having heard learned counsel for the appellant and looking to the facts and circumstances of the case, it appears that land in question belonging to the predecessor-in-title of the respondent was acquired by the appellant and the compensation was paid on 28.09.2004 vide Award

No.10/DC (N-W)/2004-05.

12. As per the Rehabilitation Policy, 1961 the respondent applied for the alternate plot and his application was rejected by the appellant as there was a delay. It is submitted by the learned counsel for the appellant that within one year from 28.09.2004 the application for alternate plot should have been preferred whereas the respondent (original petitioner) has preferred an application on 28.09.2005. This contention of delay in preferring an application by the respondent is not accepted by this Court mainly for the reason that – the compensation was paid on 28.09.2004 and application has been preferred on 28.09.2005. Thus, at the highest, there is a delay of a day in preferring this application. Whenever any Rehabilitation Policy is floated by this appellant, such type of technical plea ought not to have been raised by this appellant. We may note that, in such cases, this Court has repeatedly held that delay is not fatal and ought to be condoned. Profitable reference may be made to the order dated 26.10.2018 in LPA 605/2018 (*Govt. of NCT of Delhi vs. Dalel Singh & Anr.*), which holds thus; in circumstances identical to the present:

**“LPA No. 605/2018**

1. *This appeal has been filed by the appellant challenging the order dated 23rd October, 2017 passed by the learned Single Judge in W.P.(C) 469/2017, whereby the learned Single Judge has allowed the writ petition and directed the condonation of one day delay in filing the application seeking allotment of alternate plot by the respondent no.1 herein.*

2. *Learned Single Judge has relied upon the judgment in the case of **Rattan Singh v. Union of India and Ors. W.P.(C) 1967/87**, wherein it was held that if the petitioner (in that case) entitled to the allotment of alternate plot of land, then merely on the ground of any alleged delay on his part, he should not be*

*deprived of his right. We note even the Coordinate Bench of this court has decided the issue in LPA's 138/2017 and 139/2017 titled as GNCTD v. Sanjay and Ors. In the said appeals, there was delay of four months and seven days over and above one year prescribed for making application for alternate plot. The delay was condoned by the learned Single Judge and the Division Bench upheld that order. The judgment in the case of GNCTD v. Sanjay and Ors. (supra) was followed by the Division Bench in yet another appeal being GNCTD (through Secretary, Land and Building Department) v. Vijay Singh and Ors., LPA 188/2017 decided on 22nd March, 2017, wherein delay of one month over and above one year was condoned.*

3. *In view of the consistent view by the Coordinate Bench of this court and the delay of four months and seven days was condoned, the learned Single Judge was justified in condoning the one day delay in filing the application.*

4. *Accordingly, we do not see any merit in the appeal, the same is dismissed."*

13. This aspect of the matter has been properly appreciated by the learned Single Judge while allowing the writ petition preferred by the respondent.

14. Except delay, no other ground has been pointed out while rejecting the application preferred by the respondent. Hence, no new ground for the rejection can be mentioned in the memo of this LPA. This Court has to appreciate the ground of rejection mentioned by the appellant in their order. No new grounds can be supplemented by way of an affidavit in the writ petition nor by way of the grounds mentioned in the memo of the LPA. It has been held by Hon'ble the Supreme Court in **Mohinder Singh Gill and Anr. vs. The Chief Election Commissioner, New Delhi & Ors.** reported in AIR 1978 SC 851 in para No.8 as under:

*“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji (AIR 1952 SC 16) (at p. 18):*

*“Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”*

*Orders are not like old wine becoming better as they grow older.”*

15. As a cumulative effect of the aforesaid facts, reasons and judicial pronouncement, no error has been committed by the learned Single Judge while deciding W.P.(C) No.4085/2018, vide order dated 24.04.2018, hence there is no substance in this LPA, and the same is hereby dismissed.

**CHIEF JUSTICE**

**C. HARI SHANKAR, J**

**JULY 01, 2019/kks**