

\$~4

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

Date of Decision: 17.09.2019

+ LPA 423/2019

LAND AND BUILDING DEPARTMENT , GOVT OF NCT OF
DELHI Appellant

Through: Ms. Sapna Chauhan, Ms. Ruchika
Rathi & Mr. Sajan Singh, Advs.

versus

PITAM SINGH Respondent

Through: Mr. N.S. Dalal & Mr. D.P. Singh,
Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.29239 /2019

This application has been preferred under Section 5 of the Limitation Act for condonation of delay of 243 days in preferring this appeal.

Having heard the counsel for the appellant and looking into the reasons stated in the application, there are reasonable grounds for condonation of delay. We hereby condone the delay of 243 days in preferring this appeal.

The application is allowed and disposed of.

LPA 423/2019

1. This appellant is the original respondent in W.P.(C) 1039/2018. The writ petition was allowed by the learned Single Judge *vide* judgment and order dated 1st October, 2018 (Annexure P-1) to the memo of this appeal. Hence, the original respondent has preferred the present Letters Patent Appeal.

2. Having heard the counsel for both the sides and looking into the facts of the present case and the policy floated by the respondent which is Rehabilitation Policy, 1961, the land losers can apply for the alternative plot. The respondent (original petitioner) whose land was acquired for the public purposes had preferred an application immediately within time on 17th November, 2006.

3. This appellant (original respondent) issued a letter after a decade i.e. on 7th June, 2016 (page 64 of the memo of this appeal), where they have demanded several documents.

4. It is submitted by the counsel for respondent (original petitioner) that these documents have already been supplied, nonetheless, if there is any document which is yet to be supplied, the same will be supplied immediately and the learned Single Judge has imposed costs of Rs.15,000/- and directed this appellant to accept further documents from the respondent (original petitioner) and to decide the application of the respondent (original petitioner) in accordance with law within time bond schedule. Much has been argued out by the counsel for appellant that once the respondent (original petitioner) has failed to supply the documents as per the communication dated 7th June, 2016, the respondent (original petitioner)

ought not to have been allowed by the learned Single Judge even with costs to present the required documents. We are not in agreement with this contention of this appellant mainly for the reasons that –

- (a) Looking into the page 58 of the memo of this appeal, initially, this appellant was in search of the following three documents –
 - (i) Three photographs, three specimen signatures and a copy of Election I-Card duly attested by Gazetted Officer;
 - (ii) Payment certificate in original;
 - (iii) Revenue record in original
- (b) Now looking to the communication dated 7th June, 2016, several other documents like Election I-Card, Aadhar Card etc. have been demanded.
- (c) As per respondent, these documents have already been supplied, nonetheless, if any document is left out, the same can always be supplied by the respondent (original petitioner) that too with costs imposed by the learned Single Judge.
- (d) It ought to be kept in mind that the direction given by the learned Single Judge is not about the allotment of the land itself but the direction is given by the learned Single Judge to this appellant to consider the application of the respondent (original petitioner) in accordance with law, especially when the land allotment process is already in process and the same has not been completed yet because there is a long list or long queue of the land losers. This appellant is giving alternative land one by one. Several land losers are still waiting in queue and hence no error has been committed

by the learned Single Judge while deciding W.P.(C) 1039/2018 *vide* judgment and order dated 1st October, 2019 whereby a direction was given to this appellant to decide the application of the original petitioner in accordance with law. It also ought to be kept in mind by this appellant - Land and Building Department of the Government of NCT of Delhi that a person whose land is acquired much earlier in point of time i.e. approximately two decades before the present date, the revenue entries etc. should have been obtained from the Government record by the appellant itself. Sometimes, the land losers after two or three decades may not having the revenue records with them. Even otherwise, the land losers have to be dependent upon the one or two Departments of the Government for getting the mutation entries and hence this appellant should have obtained the revenue entries or revenue records from their another Department instead of asking from the land losers and that too after 2-3 decades. Sometimes mechanically the appellant is demanding revenue entries from the land losers and thus too much times is wasted in this type of communication. In fact, the appellant can demand only those documents which are in exclusive possession of the land losers like –

- (1) Latest photograph
- (2) Signature etc.

- (e) Otherwise rest of the Departments of the Government can supply the details which are required by this appellant like revenue entries etc. Moreover, whenever such type of benevolent policy is being

floated by this appellant, more it should be interpreted in favour of the land losers hence also no error has been committed by the learned Single Judge while deciding W.P.(C) 1039/2018 *vide* judgment and order dated 1st October, 2018 whereby with costs of ₹15,000/- few documents are allowed to be presented by the original petitioner to this appellant. We are in full agreement with the reasons given by the learned Single Judge. Hence, we see no reason to entertain this appeal.

5. With the aforesaid observations, this Letters Patent Appeal is dismissed.

CM APPL.29240/2019 (*Stay*)

6. In view of the order passed in LPA 423/2019, this application is also dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 17, 2019

ns