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

Date of Decision: 27.08.2019

+ LPA 544/2019

LAND & BUILDING DEPT, GNCTD Appellant
Through: Ms. Ruchika Rathi, Adv.

versus

KASTURI Respondent
Through:

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

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.38139/2019 (*Exemption*)

Allowed, subject to all just exceptions.

Application is disposed of.

CM APPL.38137/2019

This application has been preferred under Section 5 of the Limitation Act for condonation of delay of 301 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 301 days in preferring this appeal.

The application is allowed and disposed of.

LPA 544/2019

1. This Letters Patent Appeal has been preferred by the original respondent in W.P.(C) 6175/2018, which was allowed by the learned Single Judge *vide* judgment and order dated 29.08.2018 (Annexure A-1 memo to this appeal) whereby the learned Single Judge allowed the respondent (original petitioner) to present two more documents, viz., Aadhar Card as well as Identity Card (attested by the gazetted officer) before this appellant authority (original respondent) with costs of Rs.10,000/-, and it was further directed by the learned Single Judge that the application by the respondent (original petitioner) for getting an alternate plot, as per the policy floated by this appellant (original respondent) should be considered by this appellant in accordance with law.

2. Counsel appearing for the appellant submitted that the plot in question, which was acquired, is *ad measuring* 15 bighas and 8 biswa. The plot in question was taken over in the year 1997 and compensation was paid in the year 2008.

3. Counsel appearing for the appellant further submitted that the application for an alternate plot was preferred by the original petitioner in the year 2008 and a letter was written by this appellant to the respondent (original petitioner) on 2nd August, 2016 (Annexure P-6), and another letter, dated 15th November, 2016 (Annexure P-9 to the memo of this appeal), was written as well, to provide certain documents, so that the application preferred by the respondent for getting an alternate plot could be appreciated by this appellant in accordance with the Allotment of Alternative Land Policy, 1961. It is further submitted by the counsel for the appellant that these documents were not supplied by the respondent, hence, her application was rejected *vide* order dated 27th January, 2017 (Annexure P-1 to the memo

of this appeal). Counsel appearing for the appellant further submitted that if the respondent has got more than one house within Delhi or outside Delhi, the respondent cannot be allotted any plot. To substantiate this contention, learned counsel for the appellant has placed reliance on the judgment dated 14th September, 2011, passed by the Hon'ble Supreme Court, in Civil Appeal No.8289/2010, titled ***Delhi Development Authority vs. Jai Singh Kanwar & Ors.***

4. Having heard the counsel for appellant and looking into the facts and circumstances of the case, we find no reason to entertain this Letters Patent Appeal, mainly for the following reasons:

- (i) It appears from the facts of the case that the possession of the plot in question was taken over in the year 1997, and compensation was paid in the year 2008, as submitted by the counsel for appellant.
- (ii) It further appears from the facts of the case that this appellant (original respondent) had floated a policy, viz., Allotment of Alternative Land Policy, 1961. As per this policy, over and above compensation, an alternate plot ought to be given to this appellant or to the person whose land has been acquired.
- (iii) Whenever any benevolent policy is sought to be interpreted, legal hurdles are brought up by this appellant, especially when the land was acquired by this appellant and when the person losing the land is a widow or an illiterate person or down-trodden persons.
- (iv) In the facts of the present case, it further appears that without any delay, the respondent (original petitioner) had preferred an application for the allotment of an alternate plot in the year

2008 and the communications of this appellant requiring the presentation of certain documents were dated 2nd August, 2016 (Annexure P-6) and 15th November, 2016 (Annexure P-9 to the memo of this appeal). These documents have been supplied by the respondent (original petitioner) as stated in the judgment and order dated 29.08.2018 passed by the learned Single Judge in W.P.(C) 6175/2018. Para 2 of the said judgment reads as under:

“2. Learned counsel for petitioner draws attention of this Court to petitioner's letter of 30th September, 2016 (Annexure P-7) wherein petitioner had sought time to obtain and furnish the requisite documents. Learned counsel for petitioner submits that after the receipt of the requisite documents, the same have been supplied to respondent on the day of the passing of the impugned order i.e. 27th January, 2017. However, it appears that the documents have been filed by petitioner after passing the impugned order. May be on the same day.”

(Emphasis Supplied)

- (v) It further appears from the facts of the case that this appellant further demanded, during the course of arguments, two more documents, viz.:
 - (a) Aadhar Card;
 - (b) Identity Card
- (vi) It further appears from the facts of the case that the learned Single Judge has imposed a cost of Rs.10,000/-, to be paid by the respondent, and the two documents – Aadhar Card and Identity Card were permitted to be presented by the respondent

(original petitioner) before this appellant, so that her application for the allotment of an alternate plot can be appreciated by this appellant according to policy floated by this appellant.

- (vii) Nowhere has it been denied by this appellant that when the writ petition was filed by the respondent, not a single document was supplied by the respondent. It appears that the application was preferred by the respondent (original petitioner) in the year 2008 – immediately after the compensation for the acquired land was paid and it was in consonance with the policy floated by this appellant, viz., Allotment of Alternative Land Policy, 1961. Whenever, for any land loser, a benevolent policy is floated by the State authorities, it ought to be kept in mind by such State authorities that the land losers must be given proper guidance, and immediately after they prefer an application, there should have been a communication by the State authorities to provide further documents. However, according to the facts of the present case, the application was preferred in the year 2008 and this appellant started communication after eight long years. No prejudice has been caused to the appellant by the order of the learned Single Judge, especially by directions to accept the Aadhar Card and Identity Card of the respondent and to decide the application of the respondent for the allotment of an alternate plot, in accordance with law and the policy floated by this appellant.

5. It further appears from the facts of the case that this appellant is still in the process of dispossessing the plots preferred by the land losers for

getting alternative land. In this eventuality, one more application of the respondent will be appreciated by this appellant, as per the direction given by the learned Single Judge in accordance with law and the policy floated by this appellant, viz., Allotment of Alternative Land Policy, 1961. Learned counsel for the appellant has placed reliance upon a judgment dated 14th September, 2011, delivered by the Hon'ble Supreme Court, in Civil Appeal No.8289/2010, titled **Delhi Development Authority vs. Jai Singh Kanwar & Ors.** on the issue that if any land loser has another house or land within Delhi or outside Delhi, such land loser will not get alternative land. We do not accept this contention, in the facts of the present case, mainly for the following reasons:

- a. It ought to be kept in mind that no additional reason can be given by the counsel for the appellant other than what is mentioned in the rejection order passed by this appellant, which is dated 27th January, 2017 (page 53 to the memo of this appeal).
- b. It has been held in **Mohinder Singh Gill & Anr. vs. The Chief Election Commissioner, New Delhi & Ors.** in para 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:

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 effect the actings 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.”

In view of the aforesaid decision, no new ground is permitted to be agitated by this appellant, than what is mentioned in the rejection order dated 27th January, 2017.

- c. Nowhere in any communication, this appellant had conveyed to the respondent (original petitioner) that she has one more plot or plots or house or houses, hence this contention is not accepted by this Court.
- d. Looking to the peculiar facts of the present case, as stated hereinabove, an application was preferred immediately by the respondent (original petitioner) for getting an alternative plot and the request by this respondent, for the allotment of an alternate plot, is in accordance with the policy of this appellant, viz., Allotment of Alternative Land Policy, 1961. This appellant has taken eight years' time to point out to the respondent that a few documents are yet to be supplied, and also looking into the fact, that the documents demanded by this appellant have also been supplied, as stated by the learned Single Judge especially in para 2 of the impugned judgment and further additional documents are also going to be supplied, i.e., like Aadhar Card and Identity Card, by the respondent. These facts make the present case different from the facts of the case which was decided by the Hon'ble

Supreme Court in Civil Appeal No.8289/2010 (*supra*). Hence, the aforesaid decision is of no help to this appellant.

6. In view of the aforesaid facts and reasons, we find no reason to entertain this Letters Patent Appeal as no error has been committed by the learned Single Judge in deciding W.P.(C) 6157/2018 *vide* judgment and order dated 29.08.2018. Hence, this appeal is hereby dismissed.

CM APPL.38138/2019 (*Stay*)

7. In view of the order passed in LPA 544/2019, this application stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 27, 2019
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