

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

% **Judgment delivered on: 29th March, 2019**

+ **W.P.(C) 2754/2012**

HARGYAN SINGH

...Petitioner

Through: Mr. Ram Naresh Yadav,
Advocate.

versus

GOVT. OF NCT OF DELHI

...Respondent

Through: Mr. Sanjay Kumar Pathak,
Advocate With Ms. K.
Kaomudi Kiran, Advocate.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

JUDGMENT

I. S. MEHTA, J.

1. The petitioner has filed the present petition under Article 226 and 227 of The Constitution of India seeking writ in the nature of mandamus or certiorari directing the Respondents herein to act in the matter immediately and recommend an alternative plot of 250 Sq. Yds. as per the scheme to the petitioner in respect of his acquired land and further to send the file bearing No. F.33(29)/13/87/L&B/Alt to DDA for allotment.

2. Brief facts stated are that on 27.03.1985 land bearing Khasra No. 54/14(4-16), 15(1-14), 66/24(4-16), 71/4(4-16) measuring 16 Bighas 2 Biswa situated in village Samaypur, Delhi was got acquired by Land Acquisition Collector vide Award No. 42/84-85. Hargyan Singh (*Petitioner herein*) had 1/20th share in the said land, the land was subsequently transferred to DDA for public utility purposes. On 15.04.1987 petitioner's mother Smt. Hukmi Chand applied for the alternative plot in lieu of the land which was got acquired as per scheme alongwith requisite documents, the case was registered under File No. 33(29)13/87/L&B/Alt. On 17.06.1987 Land Acquisition Collector, Narela, Delhi sent his report in respect of the share of the petitioner and the compensation to be given with full details of the acquired land. On 28.09.1988 petitioner became major and submitted a copy of his school certificate as his age proof. On 06.03.1991 petitioner again submitted copy of ration card, Death Certificate of his father for the purpose of allotment of alternative plot. Meanwhile, the file was closed on 08.01.1992 for non-submission of documents. On 14.12.2011 the petitioner filed application under RTI Act seeking status and other information in respect of his case pending before the L&B Department. On 21.03.2012 petitioner received reply from L&B Department of the said RTI application stating that it is too late and beyond prescribed period as the file was closed on 08.01.1992, however, as per petitioner, no intimation regarding closing of file was ever given to the petitioner. Thereafter, on 30.03.2012 the petitioner made a representation before the Secretary (Alt), Land & Building mentioning all the relevant facts but the said representation was not

replied and decided by the department, hence this petition.

3. Petitioner has submitted that he applied for an alternative plot against Award No. 42/84-85 Village Sameypur, New Delhi in the office of the respondent who use to recommend the alternative plot. The petitioner file was File No. 33(29)13/87/L&B/Alt as per scheme. Petitioner submitted that he submitted all the documents required for alternative plot in the year 1991. Thereafter, petitioner in 2011 filed an RTI application for seeking status of his case file and to his utter shock the said application was got closed in the year 1992. Petitioner submits that many closed/rejected files has been reopened on several occasions by the order of various authorities and placed his reliance on *Narain Singh v. Govt. of NCT of Delhi* W.P.(C) 3587/2007 decided on 06.11.2009 and on *Veerwati v. Govt. of NCT of Delhi* W.P.(C) 3393/2007 decided on 26.10.2009.
4. Respondent Land and Building Department through its Deputy Secretary filed a counter affidavit on 03.11.2012 stating that the writ petition is being filed after a gap of more than 20 years and therefore, it is grossly barred by delay and laches. The petitioner's claim for alternative allotment was already closed by respondent vide its letter dated 08.01.1992. The petitioner since 1992 admittedly has not taken any steps in respect of the letter dated 08.01.1992. The present writ petition has been filed on 04.05.2012 i.e. after a delay of more than 20 years. It is also submitted that the letter dated 08.01.1992 was preceded by several letters/reminders dated 08.09.1988, 22.09.1988,

19.03.1991 and 02.12.1991 for filing of the documents as required by the respondent. Respondent further submits that the entire case of the petitioner is based on the RTI application received by the respondent and such documents does not give any fresh cause of action qua respondent. Respondent has further pointed out that allotment of the alternative plot to the persons whose land was acquired by the Government is entirely a welfare scheme to rehabilitate the agriculturist whose land were acquired, which came into force on 19.05.1961. As per the said scheme, any person whose land has been acquired is entitled to apply for an alternative plot, if he fulfills the following three conditions:

- i. He must have been recorded as owner prior to issue of preliminary notification under Section 4 of Land Acquisition Act.
- ii. He must have received compensation as original owner.
- iii. He should not own a house/residential plot/flat in a village Abadi in his own name or in the name of his spouse or his dependent relations, not should be a member of any cooperative society. It is not merely a right of every person whose land has been acquired but it is under fulfillment of certain conditions.

Respondent submits that from the above scenario it is evidently clear that the applicant had received the letter of this department dated 08.01.1992 regarding closure of this case, that is why petitioner did not make any enquiry about his case for the last 23 years. In spite of repeated reminders, petitioner did not furnish the appropriate affidavit

indicating he is neither having a residential unit in Delhi nor he is a member of any cooperative housing society. The non-filing of affidavit and non-furnishing the required documents for the last 20 years shows the petitioner's lack of sincerity on his part. Therefore, the writ petition is liable to be dismissed. Respondent relied on ***Om Prakash v. Union of India & Ors.*** WP(C). 10802/2005 decided on 29.10.2013 and on ***Harpal Singh Gill v. DDA & Ors.*** WP(C). 18048/2006 decided on 17.05.2007.

5. From the perusal of the pleadings and evidence available on record, it indicates that:
- i. The aforementioned Land was allegedly got acquired on 27.03.1985.
 - ii. The mother of petitioner on behalf of petitioner sought alternative land/plot under the policy from Land and Building department on 15.04.1987.
 - iii. The petitioner claimed to have attained the age of majority on 28.09.1988 and joined the said proceedings.
 - iv. The proceedings initiated by the mother as well as the present petitioner was closed/rejected vide letter dated 08.01.1992 due to non-submission of documents to prove their ownership prior to land acquisition, document to prove that the petitioner received compensation as original owner and a document to prove that neither he nor his dependent relatives own any property in Delhi.
 - v. As per the paragraph 3 of counter affidavit filed by the

respondent, the closing/rejection letter was communicated to the petitioners vide letter dated 08.01.1992 after prior communication through letters by the Land and Building department on 08.09.1988, 22.09.1988, 19.03.1991 and 02.12.1991 to petitioner. The file maintained by the respondent was File No. 33(29)13/87/L&B/Alt.

- vi. The said file despite communication was never reopened neither by petitioner nor by his mother till date with the Land & Building Department. The information sought from the RTI was dated 14.12.2011 i.e. after a gap of about 20 years. The information was sought without clear facts and the circumstances which could show that the petitioner could not get the requisite information of rejection at the appropriate time.
- vii. The non-submission of the aforesaid documents *ipso facto* makes it clear that the petitioners were either not sincere about their prayer of the alternative plot at the relevant point of time or they were not entitled to get the alternative plot due to the conditions to be fulfilled as per the policy.
- viii. The plea of petitioner that he applied for RTI information without any specific allegation against concerned officer or without explaining the emerging situations preventing him from getting information from concerned department from 08.01.1992 onwards till 14.12.2011 and subsequent

period. Thus, receiving of information through RTI lacks bonafide intention of the petitioner.

6. The reliance placed by the petitioner on *Narain Singh* (supra) and on *Veerwati* (supra) is misplaced.

The trite philosophy, "equity aids the vigilant, not those who slumber on their rights", is of prime importance.

While exercising equitable jurisdiction, a Court of law cannot afford to overlook the unexplainable and acquiescence delay of 20 years. Reliance is placed on *Mahavir and Ors. v. Union of India and Anr.* (2018) 3 SCC 588 and on *Mool Chand v. Union of India* 2019(173) DRJ 595 DB.

7. As such there seems no merit in the writ petition filed by the petitioner and is not a fit case for exercising extra ordinary jurisdiction under Article 226 and 227 of The Constitution of India. Writ petition is accordingly dismissed. Applications, if any, are accordingly disposed of.

I.S.MEHTA

(JUDGE)

MARCH 29, 2019