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

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Date of decision: 27.08.2019

+ W.P.(C) 6675/2011

BALBIR SINGH

..... Petitioner

Through Mr.Lalit Kumar and Mr.Manoj
Yadav, Advs.

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through Mr.Sanjay Kr.Pathak and Mr.Sunil
Kumar Jha, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. This Writ Petition is filed under Article 226 and 227 of the Constitution of India for issuing a Writ of Mandamus and Certiorari directing the respondent to act in the matter immediately and recommend the alternative plot of 400 sq.yards as per scheme to the petitioner in respect of his acquired land and further send the file to DDA for allotment. It is further prayed to call the entire records of the petitioner's file.

2. It is the case of the petitioner that the alleged land measuring about 54 bigha situated in village Bagrola, Delhi of the petitioner was got acquired by the Land Acquisition Collector on 19.09.1986. Later on the said land was transferred to DDA for public purpose/Dwarka City. On 1.12.1986 the

petitioner applied for alternative plot in lieu of the land acquired as per scheme alongwith requisite documents and his case was got registered. On 9.2.1987 the petitioner submitted certain documents asked for by the Department vide letter dated 26.12.1986. On 17.1.1997 the petitioner filed application for reopening file of the petitioner alongwith certain documents. Representations were filed in 2009 and 2010 and hence the present Writ Petition.

3. Learned counsel appearing for the respondents has relied upon the judgment of a coordinate bench of this court in ***W.P.(C)6900/2008 dated 7.5.2019 titled Savitri Devi vs. Govt.of NCT of Delhi*** to contend that under similar circumstances on account of delay and laches in approaching the court this court had dismissed a similar Writ Petition.

Learned counsel for the petitioner relies upon the judgment of this court titled **Narain Singh vs. Govt. NCT of Delhi being W.P. (C) 3587/2017 dated 06.11.2009** wherein, in similar circumstances the court had allowed the writ petition.

4. Perusal of the counter-affidavit filed by the respondent shows that application for allotment of alternative plot was submitted by the petitioner on 24.11.1986. Thereafter various letters have been written to the petitioner including letter dated 1.12.1986, 15.3.1988, 12.9.1988 etc. asking the petitioner to complete the documentary requirements as enumerated in the aforesaid letters. Receipt of the letter dated 21.5.1993 is said to have not been disputed by the petitioner. On 9.6.1993 the petitioner was asked to clarify the position of Khasra Nos.measuring 38 bigha and 9 biswas to submit alongwith the same two passport size photographs, original ration card, 3 attested specimen signatures and to personally visit the department

on 16.6.1993. Despite these communications it is stated that the petitioner has failed to clarify the position as well as he did not turn up for hearing. Therefore, the case of the petitioner was closed on 23.6.1993. Thereafter it is stated that it is the own case of the petitioner that he has made an application for reopening of the closed case only on 17.1.1997.

5. I may note that there is no rejoinder filed to the aforesaid counter-affidavit rebutting the aforesaid contention. It is quite clear from the aforesaid facts that the case of the petitioner was closed in 1993. The petitioner claims that he had no knowledge of this communication. However, it is a matter of fact that in 1997 he has himself written a representation to the respondents seeking reopening of the closed file clearly indicating that he was aware that the case of the petitioner had been closed. The present petition is filed almost 18 years after the file of the petitioner was closed. Merely because some representations have been sent in 2009 and 2010, does not in any manner improve the case of the petitioner. It is a clear case of delay and latches on the part of the petitioner. It is settled law that in case there is no reasonable explanation for the delay in approaching the court, the court will usually decline relief.

6. In *Savitri Devi vs. Govt. of NCT of Delhi (supra)* vide judgment dated 7.5.2019 this court had on grounds of unexplained delay also dismissed a similar Writ Petition.

7. Reference may also be had to the judgment of the Supreme Court in the case of **State of M.P. & Ors. vs. Nandlal Jaiswal and Ors. (1986) 4 SCC 566.**

“24.Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary

and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent of the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in *Ramanna Dayaram Shetty v. International Airport Authority of India and Ors.* (1979) 3 SCC 489 and the other in *Ashok Kumar Mishra and Anr. v. Collector Raipur and Ors.* (1980) 1 SCC 180. We may point out that in *R.D. Shetty's* case (*supra*), even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs. 1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar of course, this rule of laches or delay is not a rigid rule which can be cast in a straitjacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise

of its discretion interfere and grant relief to the petitioner. But, such cases where the demand of justice is so compelling that the High Court would be inclined to interfere inspite of delay or creation of third party rights would by their very nature be few and far between. Ultimately it would be a matter within the discretion of the Court ex-hypotheses every discretion must be exercised fairly and justly so as to promote justice and not to defeat it.”

8. Learned counsel for the petitioner had relied upon a judgment of this court in the case of *Narain Singh vs. Govt. of NCT of Delhi* being *W.P.(C)3587/2007* dated 06.11.2009 to support his case. A perusal of the facts of the above judgment show that an application had been made for re-opening of the closed case on 25.08.1994. In that case the file of the petitioner therein had been closed on 07.10.1991. It is also admitted that the petitioner had therein submitted five passport size photographs, attested copy of ration card and specimen signatures. Petitioner therein also received a call letter in December 1994 and stated he had appeared before the concerned officials. Again on 25.01.2000 respondent issued notice to furnish documents to the petitioner therein. An application was moved in February 2006 under the RTI Act. The petitioner's son was intimated that the request of the petitioner for re-opening of the case is still pending consideration and no documents were required to be filed by the petitioner. A Writ Petition was then filed in this court which was disposed of in 2000 with a direction to the respondent to decide the case of the petitioner within one month. Thereafter on 16.4.2007 an order was passed by the respondent dismissing the re-opening application. Clearly in the present case the facts and circumstances are entirely different. The petitioner in that case had been vigilant and was pursuing his remedies under law. This judgment does not

help the case of the petitioner. This petition suffers from gross delay and latches.

9. Petition is dismissed. All pending applications, if any, also stand disposed off accordingly.

JAYANT NATH, J

AUGUST 27, 2019/n

