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

+ **W.P.(C) 11268/2017**

SH. RAN PAL AND ANR. Petitioners

Through: **Mr. Deepak Kr. Sharma and
Mr. Ashish Sharma, Advs.**

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through: **Ms. Mini Pushkarna, Standing
Counsel with Ms. Swaga Bhuyan and
Ms. Shiva Pandey, Advs. for Nr.
DMC with Ms. Anita Ved, Dep.
Director, Sanjay Gandhi Transport
Nagar.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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27.05.2019

1. The present petition has been filed by the petitioners with the following prayers:-

“In view of the facts and circumstances stated above and in the interest of justice, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to:

(a) Issue a writ, order or direction in the nature of certiorari thereby calling for the records of the case bearing File Nos. 267/B and 585/B and peruse the same;

(b) Issue a writ, order or direction in the nature of mandamus thereby directing the Respondent to forthwith issue

final demand letter in respect of the demised Plots / Shops in Sanjay Gandhi Transport Nagar, Phase-II, Delhi and allot and hand over possession thereof after balance payment;

(c) Award cost of the present petition in favour of the Petitioners;

(d) Any other or further writ, order or direction which this Hon'ble Court deem fit and proper in the fact and circumstances of the present case may kindly be also passed in favour of the petitioners."

2. It is the case of the petitioners that in the year 1984, the respondent had issued a public notice inviting applications for allotment of 1100 small plots for shops in Sanjay Gandhi Transport Nagar, Phase-II Delhi on deposit of bank draft of ₹15,000/-. The petitioners accordingly, vide their File Nos.267/B and 585/B applied for allotment of two plots and deposited the advance money of ₹15,000/- each with the respondent by way of demand draft bearing Nos. 2780748 and 2780749 dated March 31, 1984. They had further deposited an amount of ₹15,000/- each with the respondent on April 30, 1985.

3. It is their case that in the year 2001, during one of the visits of the petitioners to the office of the respondent, they had been informed by the officials of the respondent that one Screening Committee was proposed to be constituted to ascertain the eligibility of the applicants of plots / shops in Sanjay Gandhi Transport Nagar, Phase-II, Delhi and as and when the same is constituted, it shall be informed to the petitioners. It is their case that there was no communication from the respondent in regard to the allotment

of the plots / shops in question. Left with no other option, they submitted applications dated May 13, 2016 and May 16, 2016 under the Right to Information Act with the SPIO, North Delhi Municipal Corporation and Director, Sanjay Gandhi Transport Nagar and sought information regarding the allotment of plots / shops in question. However, no reply to the said applications has been received till date.

4. It is averred in the petition that they were informed by the office of the respondent that the record of the plots / shops in question are not available. This prompted the petitioners to submit a representation dated August 11, 2017, requesting the respondent to issue a final demand letter and hand over the possession of the plots / shops in question. However, no reply was received to the said representation. As no reply has been received, the petitioners have approached this Court by way of this writ petition.

5. A short affidavit has been filed by the respondent Nr.DMC wherein the respondent has taken a plea of delay and laches, inasmuch as the present petition has been filed after thirty two years of the last payment deposited by the petitioners in the year 1985 and after sixteen years of their purported visit to the office of the respondent in the year 2001. They stated that a Screening Committee was constituted in the year 2001 by the Nr. DMC in order to ascertain the eligibility of the applicants of Phase-II of Sanjay Gandhi Transport Nagar. The Screening Committee examined the claims of various applicants after giving them opportunity of personal hearing. Thus, around 816 number of applicants were found eligible and duly allotted plots in Sanjay Gandhi Transport Nagar, Phase-II Delhi. For the benefit of those applicants, who could not appear before the Screening Committee due to some communication gap, a final opportunity was also offered through a

public notice. The report of the Screening Committee was approved vide resolution No.610 dated February 21, 2005. It is also stated that a show cause notice dated February 02, 2001 was issued to the petitioner No.1, wherein it was stated that the petitioner had not furnished proof of his business pertaining to transport / allied business. Thus, the petitioner No.1 was called to appear before the Committee on February 23, 2001, on which date the petitioner No.1 did not appear. Thus, vide notice dated April 27, 2001, the petitioner was given a last opportunity to appear before the General Manager, Sanjay Gandhi Transport Nagar on May 22, 2001, to furnish documents to show that his business pertained to transport / allied business, along with documents of Income Tax, total gross turnover and Sales Tax documents. The petitioner No.1 did not appear before the Screening Committee despite two notices issued to him and publication of a public notice. The petitioner No.1 was not found eligible for allotment of plot / shop on the basis of the documents on record. Thus, the application of the petitioner No.1 was rejected and a communication dated December 16, 2008 was accordingly sent to the petitioner No.1 and was advised to get the earnest money refunded by submitting a written request.

6. Similarly, petitioner No.2 was also issued a show cause notice on February 12, 2001, wherein petitioner No.2 was directed to appear before the Screening Committee on March 02, 2001 along with the proof of his transport / allied business. The petitioner No.2 also did not appear before the Screening Committee on March 02, 2001. A final notice dated May 01, 2001, was issued to the petitioner No.2 for appearance before the Screening Committee on May 25, 2001 along with the relevant documents. The petitioner No.2 also did not appear before the Screening Committee despite

issuance of two show cause notices and a public notice published in the newspaper. Accordingly, a letter dated December 23, 2008 was written to petitioner No.2, regarding refund of earnest money.

7. Learned counsel for the petitioners submitted that the petitioners' case needs to be considered afresh and they should be allotted plots / shops as according to them, no action has been taken.

8. On the other hand, Ms. Pushkarna submits that no direction for allotment of plots / shops can be given as no such scheme is in vogue. She also states that the petitioners shall be within their rights to seek the refund of the amount deposited by them and she has relied upon an order passed in a similar matter i.e W.P.(C) 7911/2012 dated April 21, 2015 wherein this Court has granted interest @ 6% p.a. on the amount deposited.

9. Having heard the learned counsel for the parties, at the outset I may state here that in para 5 of the petition, the petitioners have themselves stated that they visited the office of the respondent in the year 2001 when they were informed about the proposal to constitute a Screening Committee to ascertain the eligibility of the applicants. If that be so, the cause of action for the petitioners to approach a judicial forum has actually arisen in 2001 or for that matter in 2008 when communication was sent to the petitioners. Unfortunately, no steps have been taken by the petitioners for the reasons best known to them. The petition is hit by delay and laches.

10. That apart, it is the case of the respondent, as contended by Ms. Pushkarna that there is no scheme in vogue for allotment of plots / shops with the respondent. If that be so, no writ of mandamus can be issued directing the respondent to consider the case of the petitioners for allotment of plots / shops. The only direction that can be given is for the refund of the

amount already deposited by the petitioners. The same shall be refunded to the petitioners with interest @ 6% p.a. from the date of deposit till the date of refund. The said amount shall be refunded to the petitioners within a period of two months from today.

11. Insofar as other reliefs in the petition are concerned, the same cannot be granted. To that extent, the writ petition is dismissed.

V. KAMESWAR RAO, J

MAY 27, 2019/ak