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

+ W.P.(C) 459/2019 and CM No. 2088/2019

SUBHASH

..... Petitioner

Through Mr.Kartik Rai, Adv.

versus

GOVERNMENT OF NCT OF DELHI & ANR..... Respondent

Through Mr.Sanjay Kumar Pathak, Mr.K.K.
Kiran Pathak, Mr.Sunil Kumar Jha and Mr.M.S.
Aktar, Advs. for R-1.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **06.02.2020**

1. This writ petition is filed by the petitioner seeking to impugn the rejection letter dated 10.11.2017 by which the application of the petitioner for allotment of alternate plot in lieu of the acquired land was rejected.
2. The petitioner is said to be the recorded owner of 1/36th share in the agricultural land measuring 54 Bigha and 14 Biswa situated in Village Ghonda Gujran Khadar, Illaqa, Shahdara, Delhi. The land was acquired by an award dated 19.06.1992. Compensation in respect of the land was paid on 02.06.2007. The petitioner under the policy of the respondent applied for allotment of an alternate plot in lieu of the acquired land on 27.09.2007. It is pleaded that on 22.07.2016, the petitioner received a communication where it was pointed out that there are some deficiencies in the application for allotment of an alternate plot. On 18.10.2016, a communication was also

received by the petitioner from respondent No. 1 by which respondent No. 1 sought an affidavit from the petitioner stating that he does not own any immovable property in urban areas of Delhi. It is the plea of the petitioner that on 21.10.2016 he filed all the necessary documents. He however received the rejection letter dated 10.11.2017 which states that the petitioner has failed to submit the requisite complete revenue record duly attested by the competent authority and the Surviving Member Certificate/Legal Heir Certificate. Hence, the present petition challenging the impugned order.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner has relied upon the communication dated 21.10.2016 stating that the entire documents sought for had been deposited. Alternatively, it is pleaded that even if for some reason, the documents have not been supplied, the petitioner is ready to supply the same. Reliance is placed on the judgment of this court in the case of **Balraj Singh vs. Government of NCT of Delhi & Anr.** passed in W.P.(C) No. 2650/2019 dated 20.01.2020 to support his case.

5. Learned counsel for the respondent has reiterated the submissions made in the counter-affidavit. He also stresses that there is delay in filing the present writ petition as the impugned order was passed on 10.11.2017 and the present writ petition has been filed on 11.01.2019.

6. A perusal of the communication dated 21.10.2016 shows that it acknowledges receipt of several documents filed by the petitioner. However, the column of Surviving Member Certificate has been struck off. Meaning thereby that the petitioner did not supply the Surviving Member Certificate.

7. Learned counsel for the petitioner however pleads that it could have been by inadvertence as the Surviving Member Certificate is available with

the petitioner which is dated 07.06.2008. He submits that he is willing to file the same.

8. The respondent have opposed filing of this document at this stage.

9. I however cannot help noticing that the application of the petitioner for an alternate plot was filed on 27.09.2007. The case of the petitioner for allotment of alternative plot was placed before the Recommendation Committee on 31.08.2017. The application was rejected and a communication was sent vide letter dated 10.11.2017. Hence, the respondent have themselves taken about 10 years to process the application of the petitioner for allotment of an alternative plot. In these circumstances, to oppose a belated filing of the Surviving Member Certificate does not appear to be justified.

10. Reference may also be had to the judgment of this court in the case of **Balraj Singh vs. Government of NCT of Delhi & Anr.(supra)**. In that case this court held as follows:-

“9. Learned counsel for the petitioner has also pointed out that occupancy certificate has not been filed by the petitioner which is the only document inadvertently not filed. He submits that if liberty is granted to the petitioner he will file the same within two weeks from today.

10. A Co-ordinate Bench of this court in W.P.(C) 1064/2018, titled ‘**Sh.Azad Singh v. Govt. of NCT of Delhi & Anr.**, (supra) noting the submissions of respondent No.1 held as follows:

“5. Noting the submissions made, and in view of the order of this Court in **Bhanwar Singh (supra)**, the communication dated November 10, 2017 is set aside. Petitioner shall submit the aforesaid two documents afresh in original to the respondent within four weeks from today subject to payment cost of Rs. 15,000/- to the

Delhi High Court Advocates Welfare Trust. Any deficiencies in the documents shall be communicated by the respondent no. 1 to the petitioner within two weeks of the receipt of the documents. The petitioner shall remove such deficiencies (if any) within two weeks of receipt of the said communication. The respondent shall then consider the case of the petitioner in accordance with the policy in vogue and take appropriate decision. The decision taken shall be communicated to the petitioner. If aggrieved, petitioner is at liberty to seek such remedy as available in law.”

11. The relevant facts here are that the land in question was acquired vide award dated 19.06.1992, compensation was received by the petitioner’s father on 10.11.2016. There is some delay in filing the occupancy certificate.

12. Keeping in view the fact that the delay is only of some months in filing the occupancy certificate, it would cause grave injustice to the petitioner in case the same is not taken on record.

13. Subject to payment of costs of Rs.15,000/- payable to the Delhi High Court Bar Association Lawyers Social Security and Welfare Fund, New Delhi, the petitioner is permitted to place on record the occupancy certificate within two weeks from today.”

11. In my opinion, in the facts and circumstances of this case it would be in the interest of justice that the petitioner is permitted to file the Surviving Member Certificate and complete revenue record duly attested by the competent authority. This would be in the interest of justice.

12. The plea of the respondent regarding delay and laches in filing of the writ petition is misconceived. The petition is filed within less than about 13 months. In the facts and circumstances of this case, the time taken for filing of the writ petition cannot be said to be a case of delay and laches on the part

of the petitioner.

13. Accordingly, I allow the petition. The impugned order dated 10.11.2017 is set aside subject to the petitioner paying cost of Rs. 15,000/- payable to the Delhi High Court Bar Association and Lawyer's Social Security and Welfare fund within two weeks from today. The Surviving Member Certificate etc. shall be filed immediately thereafter with the receipt of cost to the respondent within four weeks from today.

14. The concerned official/committee of the respondent shall reconsider the case of the petitioner as per law within 4 months from the date of receipt of the application.

15. With the above directions, the petition stands disposed of. Pending application also stands disposed of.

16. A copy of this order be given Dasti under the signatures of the Court Master.

JAYANT NATH, J

FEBRUARY 06, 2020

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