

\$~A-10

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

+ W.P.(C) 4866/2017

SHANTI

..... Petitioner

Through Mr.Vivek Dagar and Mr.Samir Jha,
Advs.

Versus

LAND BUILDING DEPARTMENT

..... Respondent

Through Ms.Ruchika Rathi and Ms.Shikha
Raghav, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

30.01.2020

1. This writ petition is filed by the petitioner seeking to impugn the communication dated 19.09.2016 rejecting the claim of the petitioner seeking allotment of an alternative plot as being time barred.
2. The land of the petitioner was acquired on 23.10.2002 when an award was passed. The compensation was received by the petitioner's husband on 18.12.2002. The husband of the petitioner expired on 03.07.2003. The petitioner submitted the required documents and application as above on 24.02.2004. The petitioner received a letter dated 09.03.2015 requiring the petitioner to submit certain documents pertaining to acquired land and her title. Some other correspondences were also received on 19.09.2016. The application of the petitioner was rejected as being beyond the time period.
3. I have heard learned counsel for the parties.
4. A perusal of the communication dated 19.09.2016 shows that the

application of the petitioner has been rejected as it was submitted beyond the prescribed time limit of one year.

5. The admitted fact is that the public notice prescribed a period of one year for making the application for an alternate plot from the date of receipt of compensation. In the present case, there is a delay of two months beyond the period of one year in making the application.

6. Two facts are quite obvious from a perusal of the petition. Firstly, the husband of the petitioner expired on 03.07.2003. Hence, it is obvious that the death of the husband would have caused delay in filing of the application for an alternate plot.

7. Secondly, I may note that the petitioner did finally file the application for an alternative plot on 24.02.2004. The respondent have taken 12 years to reject the said application i.e. in 2016.

8. The respondent, in my opinion, cannot now turn around and say that the delay of two months completely bars the petitioner from making an application for allotment of an alternative plot. The respondent who have themselves taken 12 years to deal with the application cannot obviously be permitted to deny the relief to the petitioner based on a nominal delay, even if I assume there is no explanation for the delay. Admittedly, in this case, an explanation for the delay has been given, namely, the death of the husband of the petitioner.

9. In this context, reference may be had to the judgment of the Division Bench of this court in the case of **Govt. of NCT of Delhi vs. Poonam Gupta**, dated 08.12.2015 passed in LPA No. 190/2015, where the court held as follows:-

“18. In the light of the legal position noticed above, we are of the

view that the time limit set in the Public Notice cannot be held to be final and conclusive so as to preclude the persons whose lands are acquired from being considered for allotment of the alternative land under the Scheme. The long delay in making the application under the Scheme, no doubt, is a factor to draw an inference that there is no actual need of the alternative plot, however, it cannot be held that all the applications which are made beyond the period prescribed in the Public Notice shall be rejected as barred by limitation. As pointed out in Simla Devi vs. Secretary and Others (supra), the Scheme did not provide for any limitation as such, but certain time limit has been stipulated only in the Public Notice issued by the concerned department. It appears to us that the object of stipulation of such time limit is not to destroy the rights of the parties but the same is meant to see that the parties are vigilant in enforcing the benefit provided under the Scheme and that they do not resort to dilatory tactics. Therefore, it is always a question of discretion of the Recommendation Committee which has to be exercised on a consideration of all the relevant facts including the diligence and bona fides of the party making the application for alternative land under the Scheme.”

10. In view of the above, the impugned order dated 19.09.2016 is quashed. The matter is remanded back to the concerned Committee/Officer for fresh consideration of the application of the petitioner. The concerned Committee/Officer shall take a decision within three months from today.

11. The petition stands disposed of.

JAYANT NATH, J

JANUARY 30, 2020

rb