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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 4692/2017
OM PRAKASH Petitioner
Through Mr.R.K.Sharma, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ORS Respondents
Through Mr.Sanjay Kumar Pathak, Mr.Sunil
Kumar Jha and Mr.M.S.Akhtar, Adv.
for R-1 & 2.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **13.02.2020**

1. This writ petition is filed by the petitioner seeking a writ of certiorari to quash the order dated 20.08.2013 rejecting the application of the petitioner for allotment of alternative plot.
2. The case of the petitioner is that his father Late Sh.Sardar Singh was a co-owner having 1/4th share in the land measuring 33 bighas 16 biswas and 19 bighas 7 biswas situated in the Revenue Estate of Village Palam, New Delhi.
3. The aforesaid land of the petitioner's father was acquired and an award was passed in 1986. The petitioner's father received compensation on 24.12.1986. It is stated that the petitioner in September, 1987 applied for allotment of alternative plot in terms of the policy of the respondents. The petitioner's father expired on 04.05.1995. The case of the petitioner was rejected vide communication dated 20.08.2013 on the ground that the application for allotment of alternative plot has not been filed within the

prescribed time limit of one year after receiving the compensation. In the rejection letter, it is stated that the petitioner had actually applied for allotment of alternative plot on 19.09.1988.

4. I have heard the learned counsel for the parties.

5. Learned counsel for the petitioner relies upon a public notice issued by the respondents. According to the public notice, opportunity was given to the persons whose land having acquired from 16.11.1963 to 31.12.1988 to apply for allotment of alternative plot so that their application reaches latest by 30.04.1989. It is stated that this aspect has not been pleaded in the writ petition. The public notice was not available with the petitioner at that time. The public notice was made available to the petitioner only after the learned counsel for the petitioner came across the same by going through the judgment of this court in the case of **Jai Singh Kanwar v. Union of India & Ors., (2008)149 DLT 354.**

6. Learned counsel for the respondents however pleaded that the petitioner itself is guilty of delay and laches. It is stated that the present writ petition has been filed in 2017 whereas the application of the petitioner was rejected in 2013. The learned counsel for the respondent also points out that an additional affidavit has been filed where the sanctity of the time fixed for making an application was reiterated. The learned counsel for the respondents also relies upon the order of a Co-ordinate Bench of this court in the case of **Vijay And Anr. v. Land & Building Department**, W.P.(C) 5511/2016 decided on 26.07.2017 to support his plea of limitation.

7. In the rejoinder, the learned counsel for the petitioner has clarified that the petitioner had after receipt of the rejection letter on 20.08.2013 filed a suit in February, 2014. The suit was dismissed on 26.12.2016 on the

ground of lack of subject matter of jurisdiction on the part of the civil court. It is, thereafter, immediately in 2017, the present writ petition has been filed.

8. There is a dispute regarding the date on which the application for allotment of alternative plot was made. According to the petitioner, the application was made in September, 1987 well within limitation period of one year. However, the learned counsel for the petitioner states that the application is normally deposited with the office of the respondent which did not give a receipt. The date, namely, September, 1988 is the date when the respondents have registered the application.

9. Be that as it may, the matter of fact is that the application was admittedly filed in September, 1988. There is at best a delay of 9 months in moving the application for allotment of an alternative plot. In my opinion, there are various grounds to condone the delay of 9 months.

10. I may first look at the public notice relied upon by the learned counsel for the petitioner. This public notice clearly spells out that those persons whose land has been acquired from 16.11.1963 to 31.12.1988 can apply for allotment of alternative plot so that application reaches by 30.04.1989. Hence, the limitation period prescribed is 30.04.1989. There is no explanation regarding this public notice. The application is filed within the time period prescribed by this notice.

11. In any case, if for some reasons, the said public notice is not applicable to the facts of this case, the alleged delay of 9 months in filing the application for allotment of alternative plot is liable to be condoned.

12. I cannot help noticing that the application that was allegedly filed in September, 1998 for allotment of alternative plot had been rejected by the respondents on 20.08.2013, namely, after a lapse of 25 years. The

respondents have taken 25 years to process the application of the petitioner for allotment of alternative plot. They cannot be permitted to turn around and say that there is delay of 9 months in filing the application and hence the same cannot be considered.

13. The reliance of the learned counsel for the respondents on the judgment of the Co-ordinate Bench of this court in ***Vijay And Anr. v. Land & Building Department*** (supra) is misplaced. That was a case where compensation was received on 28.09.1993 and application for allotment of alternative plot was made on 26.05.2000 about seven years after receiving of the compensation. The facts of the present case are entirely different. The judgment does not help the case of the respondent.

14. There are enough grounds to condone the alleged delay of 9 months in filing the application for allotment of alternative plot. The impugned order dated 20.08.2013 is accordingly quashed. The matter is remanded back to the respondents to consider the application of the petitioner for allotment of alternative plot afresh as per law. The concerned officer/committee will deal with the application of the petitioner within three months from today.

15. With the above direction the present petition is disposed of.

JAYANT NATH, J.

FEBRUARY 13, 2020/v