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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11969/2018 & CM APPL. 46384/2018
SHRI KUNWAR PAL Petitioner
Through Mr.Naresh K.Daksh, Adv.

versus

GOVT. OF N.C.T. OF DELHI Respondent
Through Mr.Biraja Mahapatra and Mr.Sumit
Mishra, Advs.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
% **05.03.2020**

1. This writ petition is filed by the petitioner seeking an appropriate direction for *setting aside* the impugned order dated 02.02.2016 by which the application for allotment of an alternative plot was rejected on the ground of delay on the part of the petitioner.
2. The case of the petitioner is that the agricultural land situated in Village Garhi Mandu, Delhi was owned and possessed by the petitioner's father, Sh.Balbir Singh. The same was acquired by an award dated 19.06.1992. Possession of the said agricultural land was taken over on 25.01.2000 and compensation was also paid on 21.06.2001. As per the rehabilitation policy, on account of acquisition of land, Sh.Balbir Singh got prepared the application and affidavit etc. and submitted the same with the respondent on 08.01.2004. It is stated that from 2005 to 2016 the application of the petitioner remained pending. On 03.11.2009, petitioner's father, Sh.Balbir Singh expired. Hence, the present writ petition.
3. The respondent have filed a counter affidavit. In the counter affidavit,

it is confirmed that the application of the petitioner was dismissed on account of being time barred as it was not filed within a period of one year from the date of receipt of the compensation. Reliance is placed on the order dated 23.12.1992 of the Lt.Governor that has decided that time limit of one year is fixed for submission of an application for allotment of an alternative plot.

4. I have heard learned counsel for the parties.

5. Learned counsel for the petitioner relies upon the judgment of the Division Bench of this court in the case of ***Government of NCT of Delhi Thr Secretary v. Poonam Gupta, 2015 (225) DLT 533***. It is stated that if some explanation of the delay is provided, the authority should take steps as per law.

6. A perusal of the said judgment of the Division Bench of this court shows that the case was dealing with the notification issued on 14.09.1987 which provides the period of three months for making an application for allotment of an alternative plot. In those circumstances, the Division Bench 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 (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.

19. Hence, in our considered opinion, it is essential for the Recommendation Committee to consider the applications for alternative land even if they are made beyond the period specified in the public notice and the applications can be rejected as time barred only where it is found that the delay is not satisfactorily explained.”

7. In the present case, the learned counsel for the petitioner states that the applicant, Sh.Balbir Singh has already died. However, from the facts as available, it is manifest that late Sh.Balbir Singh had applied for payment certificate which he got in January 2003. Subsequently, he got the application and affidavit prepared in July, 2003 and verified/attested from the Land Acquisition Collector on 24.12.2003. Thereafter, the application for allotment of an alternative plot was filed on 08.01.2004. An explanation for the delay is provided in terms of the judgment of the Division Bench as noted above in ***Govt. of NCT of Delhi Thr Secretary v. Poonam Gupta***(supra). It would be for the recommendation committee/appropriate officer to consider the application of the petitioner for allotment of an alternative plot keeping in view the explanation for delay in filing the application.

8. I cannot also help noticing the conduct of the respondent. The

application of the petitioner was filed on 08.01.2004, which has been rejected on 02.02.2016 i.e. after a period of 12 years. It is highly improper for the respondent to insist on meticulous adherence to the time limit fixed in the public notice, which in the case is one year for making an application for allotment of an alternative plot but themselves took 12 years to dispose of the said application.

9. The petition is allowed accordingly. All pending applications, if any, are also allowed as above.

10. The concerned recommendation committee/appropriate officer will deal with the application of the petitioner for allotment of an alternative plot as per law in the light of the dicta of the aforesaid judgment of the Division Bench of this court noted above. Needful be done within four months from today.

JAYANT NATH, J.

MARCH 05, 2020/v