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

+ **Date of Decision: 17.04.2023**

% LPA 300/2023 & CM APPLs. 18418-18420/2023

VIKAS JAIN Appellant

Through: Mr. Aditya Kr. Choudhary, Ms.
Gurmeher Vaan Singh, Mr. Raja
Choudhary, Advocates

versus

UNION OF INDIA AND ORS. Respondent

Through: Mr. Saroj Bidwal, SPC for UoI
Mr. Anupam Srivastava, ASC for
GNCTD with Mr. Dhairya Gupta,
Advocate

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE YASHWANT VARMA

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The present Appeal is arising out of the order dated 27.09.2022 passed in W.P.(C.) No. 2946/2018 titled *Vikas Jain Vs. Union of India & Ors.*. The facts of the case reveal that the Appellant came up before this Court by filing Writ Petition under Article 226 of the Constitution of India for issuance of appropriate writ, order or direction directing the Respondents to allot an alternative plot to the Petitioner in pursuance to the Application submitted by his Late Grand Mother.

2. A prayer was also made for quashment of order dated 19.06.1998 by

which the claim of the petitioner/ appellant herein was turned down.

3. The undisputed facts of the case make it very clear that Appellant's Grand Mother Smt. Prabhavati was the owner of a Plot situated in Village Gharuanda Neem Ka Bangar, Paharganj, New Delhi and vide notification dated 13.11.1959, the plot was acquired wide Award No. 6-C/71-72. The compensation was paid to the predecessor-in-title on 26.10.1994 and the Grand Mother of the Appellant executed a will on 04.10.1988 in favour of the Appellant herein.

4. It is an undisputed fact that a Scheme was notified on 02.05.1961 for "Large Scale Acquisition Development & Disposal of Land in Delhi" and the Grand Mother of the Appellant on 09.05.1995 submitted an Application for alternative plot which was to be provided as per the Scheme. The Application was rejected on 19.06.1998, and after a lapse of about 20 years a Writ Petition was preferred before this Court.

5. The Learned Single Judge has dismissed the Writ Petition preferred by the Appellant/ Petitioner therein and Paragraph Nos. 23 to 44 of the aforesaid order read as under:

"23. The respondent no. 3, while passing the impugned order dated 19th June 1998 noted that the applicant was not the recorded owner of the concerned land prior to the issuance of the Notification published notifying its acquisition. The contents of the order are reproduced hereunder:-

"With reference to your application dated 09.05.95 for allotment of alternative plot, I am directed to inform you that your case was considered by the committee constituted for recommendation of alternative plots and

rejected on the ground that you were not the recorded owner in the land records prior to issue of notification Under Section 4 of the Land Acquisition Act.”

24. The sole ground taken by the respondent no. 3 while rejecting the application of allotment of alternative plot was that the applicant was not the recorded owner of the land acquired prior to the issuance of the Notification under Section 4 of the LA Act.

25. To examine the validity of the ground taken by the respondent no. 3 while rejecting the application of the petitioners’ predecessor-in-interest, the objectives and the background of the Scheme of 1961 may be analysed.

26. The Scheme for Large Scale Acquisition Development & Disposal of Land in Delhi, which came into force on 2nd May 1961 and has been modified from time to time, not only provided for measures for controlling value in urban areas but also largely regulated the conditions stipulated for acquisition, development and disposal of land.

27. The objective of the Scheme of 1961 suggests as under:

“The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure”

28. This objective has also been reiterated by this Court as well as the Hon’ble Supreme Court in various cases. A coordinate bench of this Court in Jai Singh Kanwar vs. Union of India, 2008 SCC OnLine Del 492, made the following observations:-

“7.2 Giving its imprimatur to the policy the Full Bench in Shiv Devi Virley explained the rationale for the policy was to see that the population of Delhi is properly housed and has the means for acquiring residential houses and further that if a person has bought a residential plot privately and the State chooses to acquire that land at a very meagre price, then surely it is the duty of the State to give an alternative plot at a moderate

price to those persons who have been deprived of possible residential houses, which they could have constructed on the land they have acquired”

29. Further, in *Surender Singh Mann vs. Government of NCT of Delhi*, W.P.(C) 12306/2015, decided on 25th August 2017, a Coordinate Bench of this Court observed as under:-

“7 At this stage, it would also be useful to extract the eligibility criteria of the Government which had been approved by the Government of NCT of Delhi in the year 1961 dealing with allotment of alternate plots. The object of the scheme reads as under:-

“The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure”

8 The object thus clearly being to provide developed residential plots to farmers whose land had been acquired for the planned development of Delhi; this being a rehabilitative measure.

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12 The Policy of the Government as is evident from the scheme was to provide residential plots to farmers whose land had been acquired; it was a rehabilitative measure; meaning thereby that it was to rehabilitate those farmers whose land had been acquired as they had become homeless or landless. ”

30. Hence, it is evident that the Scheme of 1961 was introduced as a means to provide for those whose land is acquired for the purposes of development and to ensure that such persons are not rendered homeless or landless in the event of such acquisition. However, this is not an absolute right which the person handing over possession upon acquisition may have. The Scheme for alternative plot does not confer a direct and absolute right to any person whose land is acquired. The

Scheme provides for conditions under paragraph 10, which were updated and modified with time and as per requirements. These conditions acted as eligibility criteria for the land owners whose lands were acquired and who became entitled to be considered for allotment of alternate plot, subject to the conditions laid.

31. These conditions which stood under paragraph 10 of the Scheme are reproduced hereunder:-

“10. The following conditions shall govern the allotment of land whether by auction or otherwise to individuals (including those whose land has been acquired):

a) No plot should be allotted to any person, who or whose wife/husband or any of his/her dependent relations including unmarried children owns a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception in the case of persons living in a congested locality or whose family has out-grown should be considered after some experience has been gained of the working of the scheme.

b) The allottee of a plot should be required to construct the house in accordance with the sanctioned plans within two years of the date of allotment, failing which the land would be liable to be resumed.

c) The allottee of a plot shall not sell or transfer his rights in the plot or part thereof for a period of 10 years from the date of allotment except with the previous approval of the Chief Commissioner which will be given only in exceptional circumstances. Thereafter the permission to sell will be given to the Chief Commissioner. In both the cases, 50% of the unearned increase in the value of the plot will be paid to the Government before the transfer is permitted.....”

32. With subsequent amendments and modifications in the successive years, the Scheme ultimately provided for the following eligibility criteria for allotment of alternate plot:-

“1. The persons who are RECORDED OWNER prior to issue of notification under Section 4 of the Land Acquisition Act.

2. The persons whose lands have been acquired must have received the compensation as rightful owners from the LAC/Court and the Govt. has taken the possession of acquired land.

3. The applicants should not own a house/residential plot/flat out of village abadi in his/her dependent relation's name including unmarried children, nor he should be a member of any Co-operative Housing Society.

4. For awards announced prior to 3.4.86, the land acquired is not less than 150 square yards and for awards announced post 3.4.86, the land must not be less than one bigha.”

33. Further, a Division Bench of this Court in Government of NCT of Delhi vs. Veerwati, 2012 SCC OnLine Del 1444, and its connected LPAs, held that there are four requisite conditions for consideration while filing and adjudicating the application for allotment of alternative plot. The relevant portion of the judgment is reproduced hereunder:-

“3. In the year 1961 the Government formulated the scheme for allotment of alternate plots to those land owners whose land is acquired for planned development of Delhi and the land so acquired is placed at the disposal of the DDA. The allotment of alternate plot under this policy was subject to his satisfying, beside others, following conditions:—

a) The application must have been filed within a period of one year from the date of receipt of the compensation.

b) He should be recorded owner of the acquired land prior to the date of issuance of the Notification under Section 4 of the Act.

c) He must have received the compensation for the said land as a rightful owner and the possession of the acquired land has been taken by the Government.

d) Neither he nor his spouse nor any of his dependent children own any residential property in Delhi.”

34. The same have also been reiterated by a Division Bench of this Court in Ranjeet Singh vs. Govt. (NCT of Delhi), 2017 SCC OnLine Del 10794, wherein it was observed as under:-

“10. DDA issued a printed version of the alternative plot allotment scheme outlining eligibility criteria and the norms for the sizes of plots, the procedure to be followed etc. Significantly, a reference was made to the Scheme contained in the letter of the Government of India dated 02.05.1961. It also stated that the plots are allotted by the DDA on the recommendation of the Govt. of NCT in terms of policy prescribed by the latter. There was a stipulation that those eligible, in the case of acquisition of ancestral land had to be recorded owners before the issue of the Notification under Section 4 of the Act. There was a condition that such individuals should have received compensation as rightful owners and possession of such land should have been taken by the Govt. of NCT of Delhi. The disqualifying condition stipulated was that applicants should not own a house or residential plot in their own name or name of the near and dependent relations. For awards announced prior to 03.04.1986, the land acquired was to be not less than 150 sq. yards and for post 03.04.1986 awards, it was to be not less than 1 bigha. Under the sub-heading procedure followed by the Department, there were two columns for

documents to be submitted. The first was in case of applicant being recorded owner at the time of Notification under Section 4 of the Act. The other column was if the applicant was not recorded owner, i.e. is one of the legal heirs of the deceased recorded owner. In the latter case, in addition to the documents required to be submitted by the applicants belonging to the first category, certain other documents like death certificate, heirship certificate, relinquishment deed of other legal heirs and indemnity bond have to be submitted.

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23. The scope of the scheme and its raison d'être is explained in its object clause which inter alia says that it is to benefit "farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure". The eligibility conditions no doubt stipulated that for ancestral lands, the concerned landowner should have been a recorded owner and in the case of transferred lands, the owner should have acquired them five years before the notification for acquisition, through a regular deed and should have mutated the property in his or her favour. There are also provisions that clearly state that if lands or houses are in the name, unacquired, in favour of the land owner, that would not be a bar for application for alternative plots."

35. The conditions stipulated as above have stemmed from the Scheme of 1961 and its subsequent amendments and hence, have to be given foremost importance while making an application for allotment of alternative plot and while its consideration by the concerned authority. Evidently, the condition of the applicant being a recorded owner of the plot in question prior to the issuance of notification under Section 4 of the LA Act is a condition which finds mention in the first notified Scheme as well as its modified versions and has also been reiterated by the Division Benches. Therefore, there is no doubt that it is one of the crucial and indispensable condition

which needs to be fulfilled while making/considering an application for allotment of alternative plot.

36. In the instant matter, the applicant was not found to be the recorded owner of the plot which was acquired by the respondent no. 3. On the contrary, it is the case of the petitioner that the applicant had purchased the land in question on 10th February 1959 by executing a sale deed. The eligibility criterion for allotment of alternative plot has been clarified by the Division bench of this Court in Ranjeet Singh (Supra).

37. As per the Scheme, for cases where the ancestral lands are acquired for the purposes of development, the applicant whose land is so acquired should be a recorded owner of the same. In the case at hand, admittedly, the land in question was not the ancestral property of applicant/ predecessor-in-interest of the petitioner. Therefore, to this extent the Scheme of 1961 was not applicable to the applicant.

38. The second situation which remains after ineligibility of the applicant for the reason of the land in question not being her ancestral property, is ascertaining her right, entitlement and eligibility keeping in view the rights of the individuals in cases for transferred properties. To this aspect, the Division Bench in Ranjeet Singh (Supra) noted that where the land acquired is not an ancestral land and the landowner is not the recorded owner of such property but has had the same transferred in his name, such transfer by way of regular deed, should be executed five years prior to the notification for acquisition of land and be mutated in his favour, for him to be eligible for allotment of alternative plot. The petitioner herein claims that the applicant had purchased the land in question much prior to the Notification dated 13th November 1959 was issued, however, even to his claim the same was purchased only on 10th February 1959, i.e, merely nine months prior to the issuance of the Notification. Therefore, in this expansive interpretation and difference in applicability of conditions in case of ancestral property and transferred property too, the case of the applicant did fall under the Scheme of 1961 and the conditions laid therein.

39. *The petitioner has also contended that compensation for plot acquired was provided to the applicant which showed that she was the rightful owner of the plot so acquired, however, the background and objective of the Scheme shows that measures like providing compensation or an alternative plot in lieu of acquisition are welfare measures for those whose lands are acquired for development purposes and to ensure that they are not rendered landless, remediless or without any relief upon such acquisition. Even the Award in favour of the predecessor-in-interest of the petitioner was in the nature of an interim and immediate welfare and relief measure to accommodate her sustenance till the time she was re-placed.*

40. *Hence, in light of the conditions laid down under the Scheme of 1961, the eligibility criteria interpreted by the larger benches of this Court and after examining the case of the petitioner, without conducting a roving inquiry into the facts and evidence of the case, it is found that the claim of the applicant for allotment of alternative plot was rightly rejected by the respondents. There is no error apparent on the face of record or any gross illegality in the order passed by the concerned authority after scrutiny of the applicant's case on merits.*

41. *Furthermore, in the instant case, as is evident from the record, the petitioner approached the Court in the year 2018 after having the application for allotment of alternative plot rejected on 19th June 1998 and it is a well-known principle that delay defeats equity - "Vigilantibus non dormientibus aequitas subvenit" which means that equity assists the vigilant and not those who sleep on their rights. There is an unreasonable delay in bringing forth a claim by the petitioner which in itself is a major hurdle in granting relief to the claimant, especially when the delay is substantial, i.e, of 20 years.*

42. *Keeping in view the facts and circumstances, the submissions on behalf of the parties, contentions made in the pleadings, as well as observations and discussions in the foregoing paragraphs, this Court finds that the impugned rejection order dated 19th June 1998 does not warrant any*

interference from this Court since there is no cogent reason to set aside the same.

43. Accordingly, the instant petition is dismissed for being devoid of merits. Pending application, if any, also stand disposed of.

44. The order be uploaded on the website forthwith. ”

6. It is an undisputed fact that the application for allotment of an alternative plot was rejected on 19.06.1998, and after a lapse of 20 years a Writ Petition was preferred by the Petitioner. The Learned Single Judge has held the petition to be hopelessly barred by delay and laches. In the considered opinion of this Court as the Appellant was not vigilant about his right and woke up from slumber only after about 20 years, the Learned Single Judge was justified in dismissing the Writ Petition on the ground of delay and laches.

7. The Hon'ble Supreme Court in the case of ***Basawaraj and Another Vs. Special Land Acquisition Officer***, (2013) 14 SCC 81 has dealt with the issue of condonation of delay. It was a case under the Land Acquisition Act, 1894 and the Appellant land owner preferred an Appeal before the High Court after a delay of about five and a half years for enhancement of compensation. The Hon'ble Supreme Court in Paragraph Nos. 12 to 16 has held as under:

“12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory

provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. *The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, p. 266:*

“605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.”

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See Popat and Kotecha Property v. SBI Staff Assn. [(2005) 7 SCC 510] , Rajender Singh v. Santa Singh [(1973) 2 SCC 705 : AIR 1973 SC 2537] and Pundlik Jalam Patil v. Jalgaon Medium Project [(2008) 17 SCC 448 : (2009) 5 SCC (Civ) 907] .)

14. *In P. Ramachandra Rao v. State of Karnataka [(2002) 4 SCC 578 : 2002 SCC (Cri) 830 : AIR 2002 SC 1856] this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S.*

Nayak [(1992) 1 SCC 225 : 1992 SCC (Cri) 93 : AIR 1992 SC 1701] .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

16. In view of above, no interference is required with the impugned judgment and order [Basawaraj v. Land Acquisition Officer, MFA No. 10766 of 2007, decided on 10-6-2011 (KAR)] of the High Court. The appeals lack merit and are, accordingly, dismissed.”

8. The Hon’ble Supreme Court had dismissed the Appeal preferred against the judgment of the High Court as no sufficient cause was explained in the matter of delay and laches.

9. The Hon’ble Supreme Court again in the matter of condonation of delay in the case of **University of Delhi Vs. Union of India and Others**, (2020) 13 SCC 745 while dismissing the Civil Appeal on the ground of delay and laches in Paragraphs 19 to 24 and 31 to 32 has held as under:

“19. Though we have exhaustively referred to the pleadings and the contentions of the parties, including contentions put forth on merits, the same is only for completeness and to put the matter in perspective before considering the issue relating to delay and laches. In the instant case, considering that the Division Bench [University of Delhi v. Union of India, 2018 SCC OnLine Del 12085] of the High Court has dismissed the LPA on the ground of delay of 916 days, that aspect of the matter would require consideration at the outset and the facts on merits are noted to the limited extent to find out whether in that background the public interest would suffer.

20. The learned Senior Counsel for the appellant in order to impress upon this Court the principle relating to consideration of “sufficient cause” for condonation of delay and the factors that are required to be kept in view, has relied on the decision in LAO v. Katiji [LAO v. Katiji, (1987) 2 SCC 107] wherein it is held as hereunder : (SCC pp. 108-09, para 3)

“3. The legislature has conferred the power to condone delay by enacting Section 5 [Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Limitation Act, 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice—that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realised that:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal. The fact that it was the "State" which was seeking condonation and not a private party was altogether irrelevant. The doctrine of equality before law demands that all litigants, including the State as a litigant, are accorded the same treatment and the law is administered in an even-handed manner.

There is no warrant for according a step-motherly treatment when the “State” is the applicant praying for condonation of delay. In fact experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on its part is less difficult to understand though more difficult to approve. In any event, the State which represents the collective cause of the community, does not deserve a litigant-nongrata status. The courts therefore have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression “sufficient cause”. So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even-handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay. The order of the High Court dismissing the appeal before it as time-barred, is therefore, set aside. Delay is condoned. And the matter is remitted to the High Court. The High Court will now dispose of the appeal on merits after affording reasonable opportunity of hearing to both the sides.”(emphasis in original)

21. Further the decision in *Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur* [*Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur*, (1992) 2 SCC 598] is relied upon, wherein this Court has indicated the real test to determine the delay is that the petitioner should come to Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence.

22. The learned Senior Counsel for Respondent 13, on the other hand, has relied upon the decision in *Postmaster General v. Living Media (India) Ltd.* [*Postmaster General v. Living Media (India) Ltd.*, (2012) 3 SCC 563 : (2012) 2 SCC (Civ) 327 :

(2012) 2 SCC (Cri) 580 : (2012) 1 SCC (L&S) 649] wherein it is held as hereunder : (SCC p. 574, paras 28-29)

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

23. From a consideration of the view taken by this Court through the decisions cited supra the position is clear that, by and large, a liberal approach is to be taken in the matter of condonation of delay. The consideration for condonation of delay would not depend on the status of the party, namely, the Government or the public bodies so as to apply a different yardstick but the ultimate consideration should be to render even-handed justice to the parties. Even in such case the condonation of long delay should not be automatic since the

accrued right or the adverse consequence to the opposite party is also to be kept in perspective. In that background while considering condonation of delay, the routine explanation would not be enough but it should be in the nature of indicating "sufficient cause" to justify the delay which will depend on the backdrop of each case and will have to be weighed carefully by the courts based on the fact situation. In Katiji [LAO v. Katiji, (1987) 2 SCC 107] the entire conspectus relating to condonation of delay has been kept in focus. However, what cannot also be lost sight of is that the consideration therein was in the background of dismissal of the application seeking condonation of delay in a case where there was delay of four days pitted against the consideration that was required to be made on merits regarding the upward revision of compensation amounting to 800%.

24. As against the same, the delay in the instant facts in filing the LPA is 916 days and as such the consideration to condone can be made only if there is reasonable explanation and the condonation cannot be merely because the appellant is public body. The entire explanation noticed above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal. In addition in the instant facts not only the delay and laches in filing the appeal is contended on behalf of the respondents seeking dismissal of the instant appeal but it is also contended that there was delay and laches in filing the writ petition itself at the first instance from which the present appeal had arisen. In that view, it would be necessary for us to advert to those aspects of the matter and notice the nature of consideration made in the writ petition as well as the LPA to arrive at a conclusion as to whether the High Court was justified.

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31. In the matter of condonation of delay and laches, the well-accepted position is also that the accrued right of the opposite

party cannot be lightly dealt with. In that regard, rather than taking note of the hardship that would be caused to Respondent 13 as contended by the learned Senior Counsel, what is necessary to be taken note of is the manner in which Respondent 11, DMRC has proceeded in the matter. Respondent 11, DMRC is engaged in providing the public transport and for the said purpose the Government through policy decision has granted approval to generate resources through property development and in that regard the development as earlier indicated, is taken up. Pursuant thereto Respondent 11 has received a sum of Rs 218.20 crores from Respondent 13 as far back as in the year 2008. The said amount as indicated is used for its projects providing metro rail service to the commuting public. In such circumstance, if at this stage the inordinate delay is condoned unmindful of the lackadaisical manner in which the appellant has proceeded in the matter, it would also be contrary to public interest.

32. Therefore, taking into consideration all these aspects of the matter, we are of the opinion that not only the learned Single Judge was justified in holding that the writ petition inter alia is hit by delay and laches but the decision of the Division Bench in dismissing the LPA on the ground of delay of 916 days is also justified and the orders do not call for interference.”

10. In light of the aforesaid judgment, as there was an inordinate delay of about 20 years in approaching the Court, the Learned Single Judge was justified in holding that the Petition suffers from delay and laches.

11. A similar view has been expressed by the Hon’ble Supreme Court in the judgment delivered in the case of ***Union of India and Others Vs. N. Murugesan and Others***, (2022) 2 SCC 25. Paragraph Nos. 21 to 23 and 40 of the said judgment read as under:

“21. The word “laches” is derived from the French language meaning “remissness and slackness”. It thus involves

unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.

23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

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40. We find, much water has already flown under the bridge. The private respondent has already been appointed in 2016 after following the due procedure and continues to date. The respondent is an ex-employee of the first appellant Society and, having put in 23 years of service, knows its functioning very well. Thus, in our considered view the order passed by the

Division Bench [N. Murugesan v. Union of India, 2019 SCC OnLine Kar 514] cannot be sustained in the eye of the law.”

12. The Delhi High Court in the case of ***Mange Ram Vs. Delhi Development Authority***, 2010:DHC:4675-DB has again considered the issue of delay and laches. Paragraph Nos. 9 to 21 of the said judgment read as under:

“9. To appreciate the rivalised submissions raised at the bar, we have carefully scrutinised the material brought on record and the order passed by the learned Single Judge. On a careful scrutiny of the order passed by the learned Single Judge, it is manifest that there was acquisition of the land in question belonging to the father of the appellant in the year 1958. There was a recommendation, as set forth, in the year 1967. A contention was raised before the learned Single Judge that the father of the appellant had never received the recommendation letter. The inference, thus, would arise, when the father of the appellant did not receive the letter of recommendation, and his life span got extinguished on 13th July, 1986, he had accepted the said position from 1958 to 1986, that means for a span of 28 years. Even if we otherwise assume that the appellant’s father received the letter of recommendation sometime in the year 1967, as pleaded at some places, then also he did not do anything till his death. After the death of his father, as is evincible, the appellant did nothing in the matter except making representations as claimed, and eventually approached this Court in the year 2006, that is, after expiration of 20 years. If the factum of delay is construed in a proper perspective, an effort has been made to establish a right and get the relief after lapse of almost 50 years.

10. In ***Chandra Bose Vs. Union of India & Ors., 2003 (107) DLT 604***, this Court has held as follows:-

“13. In the present case, there is initially a delay from 1961 to 1986 of about 25 years in making the application. No reasons have been disclosed for the

same. Similarly there is a further delay from the rejection of the application on 10.06.1988 to filing of the writ petition in 1999 of 11 years. This delay is also unexplained. The only averment made is that the petitioner was unaware of the policy. This can hardly be a ground made out for the condensation of delay in either of the two situations.

14. It is not as if in all cases of delay the application must be rejected. It is always open to an applicant to explain the delay and if the said delay is satisfactorily explained, it will not preclude the case of the petitioner from being considered for allotment. In fact this view has been taken by this Court in C.W.P. No. 4834/1999 Smt. Vidyawati Vs. DDA & Another decided on 1.9.2003. However, in the present case there is no valid reason given for the delay in making the application.”

11. In Smt. Sundari Bala Vs. Lt. Governor & Ors., 86 (2000) DLT 505, it has been held as under :-

“4. Before appreciating the rival contentions of the parties it would be necessary to put on record certain admitted facts in the present writ petition. The land of the petitioner measuring 9 bids was situated in Village Kilokari was acquired by the respondent pursuant to which an award was passed on 16.5.1961. The respondent adopted a scheme in 1961. Under clause 8 of the said scheme anyone whose land has been acquired as a result of the notification mentioned in clause 8 of the scheme was entitled to apply for allotment of a plot. After the aforesaid acquisition the construction of the petitioner standing on the acquired land was also demolish by the respondent sometime in March, 1969 and that she received the compensation sometime in April, 1969. The application for allotment of alternative land in lieu of acquired land was filed by the petitioner in the year 1982. Public notice was also issued by the respondents in which applications from persons whose

lands were acquired between the period from 1.1.1961 and 15.11.1963 were called for consideration of allotment of alternative land. It was made clear in the said notification that Delhi Administration would not take any responsibility for allotment of alternative plot of land if applications in the aforesaid regard were not received on or before 15.12.1963.”

6. In the present case the application of the petitioner was not rejected on the ground that she is not entitled to be considered for allotment of an alternative plot in lieu of her acquired land. The ground for rejection of her application was that her case was time barred as she was to submit her application before 15.12.1963 whereas she submitted an application in 1982, for the land acquired by award dated 20.10.1961.

Thus there was no Explanation at all worth the name for the delay in filing the application. therefore, there is was inordinate delay and laches in petitioner approaching the Competent Authority for allotment of the alternative plot in lieu of her acquired land. In this connection reference may be made to a Division Bench decision of this Court in Jaswant Kaur (Supra) wherein this court dismissed a similar petition on the ground of gross delay and laches. In the said case the petitioner claimed to have made an application for allotment of an alternative plot of land on 17.4.1965, but the respondent DDA denied having received any such application. The writ petition was filed on the basis of the impugned decision communicated by letter dated 3.12.1990 which was taken on the application of the petitioner dated 19.7.1989, which was held to be highly belated. In my considered opinion the facts of the said case are similar to the case in hand and therefore, the ratio of the aforesaid decision is squarely applicable to the facts of the present case.

*7. In **Star Wire (India) Ltd. Vs . State of Haryana, (1996) 11 SCC 698** the Supreme Court after referring to*

the ratio laid down in various earlier decisions of the Supreme Court held that laches close the gates of the courts for a person who approaches the court belatedly. While coming to the aforesaid conclusion the Supreme Court relied upon an earlier decision of the Apex Court in Municipal Corporation of Greater Bombay Vs . Industrial Development & Investment Co. (P) Ltd., AIR 1997 SC 482. In State of Maharashtra Vs. Digambar, AIR 1995 SC 1991, it was held by the Supreme Court that when the writ petitioner was guilty of laches or undue delay in approaching the High Court, the principle of laches or undue delay disentitled the writ petitioner for discretionary relief under Article 226. Although the aforesaid two decisions were rendered in the context of delay and laches of the petitioner in approaching the High Court under Article 226, I do not see any reason why similar consideration should not be made applicable to a matter where a time limit was fixed for approaching the authority and doing the needful and the same was done after expiry of period of 13 years.”

12. In *Sunder Singh (since deceased) Through his Legal Heir* (supra), this Court has opined thus:

“25. We are of the view that where the petitioner is so unconcerned or unwary of his case pending for compensation, he was not entitled to alternative plot of land as the scheme is introduced by the government for the benefit of those people who are in need of the land and if there is actual need existing of the petitioners, he would not have waited for such a long time to make an application for allotment and should have been vigilant.

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27. No doubt, the scheme of allotment of alternative plots in lieu of acquired land under "Large Scale Acquisition Development and Disposal of Land In Delhi" announced by Govt. of India, Ministry of Home Affairs vide their

letter No. 37/16/60-Delhi(i) dated 2nd May, 1961 is in force with effect from 2nd May, 1961 but it is not an open ended scheme where a person whose land has been acquired vide Award passed in 1962 can apply for alternative plots any time he wishes. Though in the scheme the date for application for allotment of alternative plot was not mentioned but Delhi Administration has issued public notices from time to time where it was specifically made clear that persons whose lands were acquired between the period from 1st January, 1961 and 15th November, 1963 has to apply for alternative plot before 15th December, 1963. But in the present case Notification under Section 4 was issued on 13th November, 1958 and the Award was passed on 14th March, 1962.”

*13. At this juncture, we may advert to the decisions referred to by the learned counsel for the appellant. In **S.B. Kishore** (supra), the Apex Court directed that the owner of the land was entitled to allotment of a plot of land under the scheme though he had approached the High Court after 19 years. Be it noted, in paragraph 6 of the said decision, their Lordships opined thus :-*

“6. This order is confined to the facts of the present case and shall not be taken as a precedent. No claim shall be entertained in regard to preferences.”

14. In view of the aforesaid, the said decision cannot be treated as a precedent for absolution of the principle of delay and laches.

*15. In **M/s. Dehri Rohtas Light Railway Company Limited** (supra), the Apex Court distinguished the decision rendered in **Tilokchand and Motichand and Ors. v. H.B. Munshi and Anr.**, AIR 1970 SC 898 and held as under :-*

“13. The rule which says that the Court may not inquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of

discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is reasonable explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not to physical running of time. Where the circumstances justifying the conduct exists, the illegality which is manifest cannot be sustained on the sole ground of laches. The decision in Trilok Chand (supra) relied on is distinguishable on the facts of the present case. The levy if based on the net profits of the railway undertaking was beyond the authority and the illegal nature of the same has been questioned though belatedly in the pending proceedings after the pronouncement of the High Court in the matter relating to the subsequent years. That being the case, the claim of the appellant cannot be turned down on the sole ground of delay. We are of the opinion that the High Court was wrong in dismissing the writ petition in limine and refusing to grant the relief sought for. We however agree that the suit has been rightly dismissed.”

16. On a perusal of the aforesaid decision, it is perceptible that the decision is distinguishable on the facts inasmuch as in that case, circumstances did not exist justifying the conduct and illegality was so manifest that it could not be sustained on the sole ground of laches.

17. In **K. Thimmappa & Ors.** (supra), the Apex Court, while dealing with the doctrine of delay and laches, in paragraph 9, has held as under:-

“9. On consideration of the aforesaid legal position, though, we are inclined to agree with Mr. P.P.Rao that these cases should not be thrown out on the ground of laches alone, inasmuch as the placement made on 1.10.1979 was assailed in the year 1988 at the earliest and 1998 at the latest, yet the same may not be brushed aside, particularly, when we have not been able to find out any infraction of any Fundamental Right of these petitioners, guaranteed under the Constitution.”

18. Be it noted, in the said case, the question that arose for consideration was totally different inasmuch as the matter was related to confirmation of the State Bank employees and the fact whether classification or the determination invited the frown of Article 14 of the Constitution of India. In view of the aforesaid factual basis, we are disposed to think that the said decision is also distinguishable.

*19. Having adverted to the citations which have been placed before us, we are inclined to think that the decisions rendered in **Sunder Singh (since deceased) Thr. his Legal Heir** (supra), **Chandra Bose** (supra) and **Smt. Sundari Bala** (supra) and **Star Wire (India) Ltd.** (supra) are applicable to the case at hand.*

20. In view of our aforesaid analysis, we have no doubt that the writ petition has rightly been dismissed by the learned Single Judge as we perceive that the factum of delay relates back to 1958. We can only say that the appellant possibility harboured an ambition to avail the benefit which his father, during his lifetime, could not achieve. His claim for the right can possibly be in the realm of speculation but it cannot be in the sphere of reality. To elaborate, he cannot get the stale claim alive after five decades.

21. In the result, the appeal and application, being devoid of merit, are dismissed. There shall be no order as to costs in this appeal. However, regard being had to the anxiety nurtured by the appellant, the costs imposed by the learned Single Judge is made easy. ”

13. The aforesaid judgment was also in respect of allotment of alternative land, and in the aforesaid case also after expiry of 20 years a Writ Petition was preferred.

14. In light of the aforesaid judgments, this Court does not find any reason to interfere with the order passed by the Learned Single Judge, and the Learned Single Judge was justified in dismissing the Writ Petition on the ground of delay and laches.

15. In light of the aforesaid, this Court does not find any reason to interfere with the order passed by the Learned Single Judge, and the present LPA stands dismissed.

SATISH CHANDRA SHARMA, CJ

YASHWANT VARMA, J

APRIL 17, 2023

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