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

% *Decided on: January 20th, 2023*

+ **W.P.(C) 3704/2022**

SMT. PREMWATI

..... Petitioner

Through: Mr. I.S. Dahiya, Advocate.
versus

DISTRICT MAGISTRATE NORTH & ANR. Respondents

Through: Ms. Jyoti Singh and
Ms. Manisha Mehra, Advocates
for Mr. Yeeshu Jain, Standing
Counsel for GNCTD
(Ph. 9811394417, e-mail:
yeeshujain@yahoo.in.co).

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed against the order dated 05.10.2020, issued by office of the District Magistrate (North) Alternative Branch, Alipur, Delhi – 110036. By way of the said order, the application of the petitioner for allotment of alternate plot as per Government Policy in lieu of acquisition of Village Sanoth, Delhi vide Award No. 11/2004-05 was rejected.

2. The said application for alternative allotment of plot was rejected on the ground that the case is time barred. Thus, it was decided not to recommend the case of the petitioner. This Court vide order dated 04.03.2022 had directed the petitioner to file a further

affidavit to explain delay with respect to filing of the present writ petition. By way of the said order dated 04.03.2022, it is recorded that the application for grant of alternative plot in lieu of acquisition came to be rejected by order dated 17.10.2018. The record bears a communication of 05.10.2020, in terms of which the petitioner was duly apprised and informed of the aforesaid decision. However, the writ petition came to be filed only in the year 2022 with no explanation for the evident laches.

3. Pursuant to the aforesaid order passed by this Court, an additional affidavit has been filed on behalf of the petitioner, wherein explanation has been given by the petitioner as follows:

“3.

a) The petitioner was not aware about the decision dated 17.10.2018 by which the application for allotment of alternative plot of the petitioner was rejected, until he got the communication on 05.10.2022.

b) That, the communication of rejection was received by the petitioner on 05.10.2020, therefore, the petitioner was required to file writ petition on earliest available opportunity.

c) That, in March, 2020, there the total lock-down in India on account of COVID-19 Epidemic, so this writ could not been filed.

d) That, however, the Hon'ble Apex Court taking note of aforesaid Covid-19 Epidemic situation, itself has condoned the delay and laches arise in case which was required to be filed during Covid period and also in flJ.ing written statement, reply etc. reported as 286 (2022) DLT 285 (SC).”

4. In view of the aforesaid, additional affidavit, it is clear that the

petitioner is relying upon the order of Hon'ble Supreme Court in *Suo Moto Writ Petition (Civil) No. 3/2020*, wherein the Hon'ble Supreme Court had given exemption of the limitation period from 15.03.2020 till 14.03.2021.

5. In view of the additional affidavit as filed on behalf of the petitioner, it cannot be held that there is delay in approaching this Court.

6. Perusal of the impugned letter dated 05.10.2020, as issued by the SDM (Head Quarter), District North, Alternative Branch, Alipur, Delhi – 110036, shows that the only ground for rejecting the case of the petitioner is that the same is time barred.

7. Learned counsel for the petitioner submits that the application for allotment of alternate plot was filed on 04.10.2005, within the statutory period.

8. Attention of this Court has been drawn to the Acknowledgment Receipt dated 04.10.2005, which has been annexed as P-4. Learned counsel for the petitioner submits that the impugned order has been passed on the basis of the endorsement made by the respondent on the application form of the petitioner. Attention of this Court has been drawn to the Annexure P-3 (Colly) of the writ petition, wherein the endorsement shows the date as 05.10.2005. Thus, it is submitted on behalf of the petitioner that since the endorsement wrongly notes the date as 05.10.2005, the respondent has erroneously held that there is one day delay in filing the application. Learned counsel for the petitioner submits that the application was duly filed within the stipulated time i.e. on 04.10.2005 and that there is no delay as such.

9. Considering the submissions made before this Court and also upon perusal of the documents on record, it is deemed expedient to quash the order dated 05.10.2020 as issued by the SDM (Head Quarter), District North, Alternative Branch, Alipur, Delhi – 110036. It is directed that the application and case of the petitioner for alternative allotment of plot shall be considered afresh by the respondent on merits.

10. The respondent is given liberty to direct the petitioner to submit any requisite documents as may be considered appropriate for the purposes of adjudicating the case of the petitioner. The petitioner is also granted liberty to file any documents in her possession which are deemed appropriate for consideration of her case on merits.

11. It is further directed that the respondent shall consider the case of the petitioner expeditiously, preferably within a period of six months from today.

12. With the aforesaid directions, the present writ petition is disposed of.

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MINI PUSHKARNA, J

JANUARY 20, 2023/PB