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

% *Date of Decision: 14.08.2023*

+ **LPA 308/2019 and CM Nos. 21575/2019 & 21576/2019**

GOVT OF NCT OF DELHI Appellant
Through: Mr Siddharth Panda and Mr P.
Venkatesan, Advocates.

Versus

MOORTI DEVI Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The appellant has filed the present intra court appeal impugning the judgment dated 19.04.2018 passed by the learned Single Judge in W.P.(C) 6119/2013 (hereafter '**impugned judgment**'). By the impugned judgment, the learned Single Judge had rejected the decision of the Recommendation Committee dated 28.03.2013, whereby the respondent's request for an alternate plot was rejected. The appellant was further directed to reconsider the respondent's application dated 03.06.1988 for grant of an alternate plot on its own merit within a period of twelve weeks.

2. The respondent had filed the writ petition being aggrieved by



rejection of her request for allotment of an alternate plot under the scheme to allot alternative plots to the land owners, whose lands were acquired. The said petition was allowed by the impugned judgement.

3. The agricultural land belonging to the respondent was acquired by the appellant. The Notification under Section 4 of the Land Acquisition Act, 1894 in respect of the agricultural lands owned by the respondent was issued on 27.01.1984. The award for compensation payable for the acquisition of the land was declared on 01.09.1986. The physical possession of the land in question was taken on 12.09.1986 and the compensation for the said land was paid to the respondent on 16.01.1987.

4. After receiving the compensation for the acquisition of the land, the respondent applied for an alternate plot on 06.06.1988 in terms of the scheme for allotment of alternative plots to the owners whose land had been acquired under “*large scale acquisition, development of land in Delhi*”.

5. The respondent pursued the appellant for allotment of an alternate plot but was unsuccessful. The respondent’s application for alternative plot was rejected by the Recommendation Committee on the ground that the application was filed beyond the period of three months of the date of receiving the compensation. The Recommendation Committee accordingly found that the respondent was not entitled to allotment of an alternate plot under the Scheme.

6. The learned Single Judge had noted that policies had been



framed repeatedly for permitting the persons whose lands were acquired to apply for alternate plots. A public notice to the said effect was also issued on 27.03.1989 giving an opportunity to all recorded owners whose land had been acquired during the period 16.11.1963 to 31.12.1988 to submit an application for allotment of an alternate plot before 30.04.1989. Concededly, the respondent's application was pending on the said date. As noticed above, the decision of the Recommendation Committee to reject the same was taken on 28.03.2013.

7. Since the appellant had on repeated occasions extended time for making an application for an alternative plot, albeit with somewhat different conditions; the respondent's application could not be rejected on the ground that it was not filed within a period of three months of the receipt of the compensation.

8. It is contended on behalf of the appellant that the respondent was not a recorded owner and therefore, the policy of 1989 (issued by the public notice dated 27.03.1989) did not permit the respondent to apply for an alternate plot.

9. It is material to note that the aforesaid contention was not advanced before the learned Single Judge. Notwithstanding the same, we have considered the same and find that it is also without merit. This is because, it is not disputed that the respondent had acquired the land by way of a gift deed, which was executed and registered by the respondent's mother (who is the original owner of the land in question) in her favour prior to the Notification issued under Section 4



of the Land Acquisition Act, 1894. Thus, the respondent was the owner of the property at the time when it was acquired.

10. The land may not have been mutated in the name of the respondent. However, it is well settled that mutation does not confer any title. Since the respondent was the owner of the land at the time of its acquisition, the Public Notice dated 27.03.1989 would be applicable in this case and the petitioner was entitled to apply for an alternate plot under the said policy. The benefit of the Public Notice dated 27.03.1989 could not be denied to the respondent. As stated above, the respondent's application was pending at the material time and therefore, the decision of the Recommendation Committee rejecting the respondent's application for an alternate plot of land, on the ground of delay, cannot be sustained.

11. We find no infirmity with the decision of the learned Single Judge allowing the writ petition preferred by the respondent. The appeal is, accordingly, liable to be dismissed.

12. It is also noticed that the present appeal was filed beyond the period of limitation prescribed. Admittedly, the appeal was filed after a delay of 342 days. The explanation provided in the application filed by the appellant under Section 5 of the Limitation Act, 1963 clearly indicates that the delay is not justified. Admittedly, the copy of the impugned order was received by the appellant on 19.04.2018. According to the appellant, the decision was required to be taken to file the present appeal, which was taken on 04.09.2018, that is, much after the period of filing the appeal had expired. Thereafter, an



opinion was drafted for seeking approval of higher authorities and the same was forwarded on 25.09.2018. Thereafter, the brief was transferred to the government counsel on 12.11.2018. It is stated that the present appeal was drafted on 03.01.2019 and thereafter, was sent back for filing, which is almost four months after the decision to file the appeal was taken.

13. The application seeking condonation of delay and the memorandum of appeal are dated 03.01.2019. However, the appeal was filed on 26.04.2019. Thus, the application in effect seeks to condonation of delay, which had not even occurred on the date when the application was drafted. The period of delay was left blank and has been filled up subsequently. The appeal was filed almost four months after the same was drafted.

14. We are unable to accept that the delay in filing the present appeal is required to be condoned.

15. In view of the above, the present appeal is dismissed on the ground of delay as well as merits.

16. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 14, 2023
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