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

Date of decision: 21st NOVEMBER, 2023

+ **W.P.(C) 15077/2023**

ZAHOOR HASAN

..... Petitioner

Through: Mr. Saurav Yadav and Mr. D.B. Yadav, Advocates.

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Parth Goyal, Advocate for Mr. Jawahar Raja, ASC(C) GNCTD/R-1.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

CM APPL. 60187/2023 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 15077/2023

1. Petitioner has approached this Court challenging the orders dated 26.12.1996 and 17.04.2013, passed by the Respondent No.2 herein/DSI IDC and the Order dated 04.05.2023, passed by the learned Civil Judge-02, Karkardoom Courts, Delhi in CS No.386/2023.

2. The facts, as stated in the present Writ Petition, are that the Petitioner is the sole proprietor of "M/s Zahoor Engineering Works" which is being run from A-6, Jyoti Colony, Gali No.1, Loni Road, Shahdara, Delhi. It is stated that the Petitioner filed an application, being application No.24507/1996 with the Commissioner of Industries for allotment of



alternative industrial plot under the Relocation Scheme. It is stated that the Petitioner came to know that the said application has been rejected by the Commissioner of Industries on 26.12.1996. The Petitioner, thereafter, requested the Commissioner of Industries to re-open the file for reconsidering the issue regarding the allotment of industrial plot. Material on record discloses that on 17.04.2013 the Petitioner herein again filed an application in the office of DSIIDC for allotment of alternative industrial plot under the Relocation Scheme and the said application was rejected with the following observations:

“This has reference to your appeal filed against the action of rejection captioned above, to the Commissioner of Inds. GNCTD for reconsideration of the case. In this context, I am directed to inform you that your appeal has now been rejected by the Office of Commissioner of Industries, Govt. of NCT of Delhi & file transferred to DSIIDC vide letter dated 11.04.2013.

As such, you are hereby advised to complete the following formalities for enabling this office to make, refund of your earnest money deposit & interest accrued thereon as per govt. policy.

1 . Any govt. proof or affidavit duly notarized towards closure of indl. activities at the factory address in nonconforming/residential area in compliance to the order of Hon'ble Supreme Court of India.

2. No dues or clearance certificate from the concerned bank in case you had taken loan for payment of EMD while submitting your above said application form under the said scheme in the year. 1996.

3. PAN as required under the IT Act for credit of



interest on EMD as per policy.

In case the refund of HMD arid interest thereon had already been made to you or to the financing bank, then this reference may be treated as an intimation in reply to your representation/appeal only.”

3. Virtually after five years, the Petitioner filed an RTI application seeking for the reasons as to why his application for re-opening of the file for allotment of an alternative industrial plot under the Relocation Scheme has been rejected. Material on record further discloses that the Commissioner of Industries forwarded the RTI application of the Petitioner to the Public Information Officer (PIO), Relocation Department, DSIIDC. It is stated by the Petitioner that the Petitioner came to know that his RTI Application has been rejected. It is stated that on coming to know that the application of the Petitioner has been rejected, the Petitioner filed one more application on 06.01.2023 for allotment of alternative industrial plot under the Relocation Scheme on the ground that he is eligible for being allotted an alternative industrial plot under the Relocation Scheme. The Petitioner also filed a suit being, CS No.386/2023, before the learned Civil Judge-02, Karkardoom Courts, Delhi, for declaration and permanent injunction. In the said Suit, the DSIIDC filed an application under Order VII Rule 11 (a) & (d) of the CPC for rejection of the Suit. The learned Civil Judge, vide Order dated 04.05.2023, allowed the application filed by the DSIIDC on the ground that the Suit is barred by limitation. The learned Civil Judge held that the Petitioner herein has prayed for a declaration of the Orders dated 26.12.1996 and 17.04.2013 to be null and void. The learned Civil Judge held that the Suit has been filed after ten years of the order dated 26.12.1996 and, therefore, it is barred by limitation. The learned Civil Judge placed reliance



on the Judgment of the Apex Court in Hardesh Ores (P) Ltd v/s. Hade and Company, (2007) 5 SCC 614, which holds that if the suit has been filed after the period prescribed in the Limitation Act, the Suit can be dismissed on the ground of limitation. Material on record shows that the second prayer, which was of injunction, made by the Petitioner in the said Suit has also been dismissed on the ground that the said prayer being one for allotment of an alternative industrial plot cannot be allowed as there is no cause of action against the DSIIDC as the DSIIDC has not made any attempt to seal the workshop of the Petitioner herein.

4. Heard the Counsels and Perused the material on record.
5. The admitted facts of the case are that the Petitioner moved an application in 1996 for allotment of an alternative industrial plot under the Relocation Scheme. The said application was rejected in 1996. In 2006 the Petitioner filed an appeal which was rejected in 2013. The Suit filed by the Petitioner in 2023 praying for a declaration that the abovementioned orders are null and void could not have been entertained as the suit was clearly barred by time. The Suit, as framed, was clearly not maintainable.
6. Material on record discloses that the Petitioner has once again moved an application on 16.01.2023 for allotment of an alternative industrial plot and no decision in the said application has been taken by the DSIIDC. The Respondents are directed to consider the application dated 16.01.2023 within a reasonable period of time not exceeding four months from today. This Court is inclined to pass this Order because the Order dated 17.04.2013 shows that the application of the Petitioner herein has been rejected on two technical grounds that the Petitioner has not provided any proof towards closure of industrial activities at the factory which was operated by the



Petitioner and that the Petitioner has not given a no dues certificate from the concerned bank in case he had taken a loan. Since these two grounds are only technical objections, this Court is of the opinion that the case of the Petitioner can be considered afresh by the DSIIDC provided that the Petitioner is able to rectify the application as has been directed by the DSIIDC vide its order dated 17.04.2013.

7. With these directions, the Writ Petition is disposed of along with the pending applications, if any.

8. It is made clear that this Court has not made any observations on the merits of the case and the DSIIDC is directed to consider the application of the Petitioner herein afresh and pass appropriate orders on the merits of the application in accordance with law.

SUBRAMONIUM PRASAD, J

NOVEMBER 21, 2023

Rahul