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

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Reserved on: 04th July, 2024

Decided on: 30th July, 2024

+ **W.P. (C) 7931/2014**
YOGESH CHANDER BHARDWAJ

.....Petitioner

Through: Mr. Vikas Mehta,
Mr. Sandeep Ratra and
Ms. Nitika Grover,
Advocates

V

GOVERNMENT OF NCT OF DELHI & OTHERS

.....Respondents

Through: Mr. Siddharth Panda,
Advocate for R-1 & 3
Ms. Manika Tripathy,
Standing Counsel with
Mr. Naveen K. Sarswat and
Ms. Rony John, Advocates
for R-2/DDA

CORAM
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

J U D G M E N T

1. The present writ petition is filed under Article 226 of the Constitution for issuance of direction to the respondents to execute a



lease deed in respect of plot bearing no J-275, Malviya Nagar, New Delhi in favour of the petitioner.

2. The factual matrix of the case as stated by the petitioner is that the Delhi Administration issued notification bearing no. F.15 (111)/59-LSG dated 13.11.1959 under section 4 of the Land Acquisition Act, 1984 (hereinafter referred to as **“the Act”**) to acquire the agricultural land of the village Baharpur for Planned Development of Delhi (PDD) and thereafter notification bearing no F.15(7)/61-LSG dated 16.10.1961 was issued under section 6 of the Act. The land belonging to Harpiari (whom the petitioner claims to be his grandmother) bearing *khasra* nos. 1470/820/2, 1478/830, 1481/849, 1485/1331, 1486/1331 and 1487/1331 situated in Village Baharpur was acquired vide award no.1241 and 1282 in the year 1962. Harpiari was paid compensation in respect of the land acquired vide award no.1282 of 1962 on 22.01.1963 and enhanced compensation was also paid to Harpiari in pursuance of judgment passed by the court of Additional District Judge, Delhi (hereinafter referred to as **“the Reference Court”**).



2.1 Harpiari submitted an application on 01.11.1977 for allotment of alternative plot in lieu of acquired land under the scheme of 'large scale acquisition, development and disposal of land in Delhi'. The respondent no. 1/Land and Building Department asked Harpiari to furnish legal documents in respect of the acquired land including *jamabandi*, copy of the judgment granting enhanced compensation passed by the Reference Court and several communications were exchanged between the respondent no. 1/Land and Building Department, Acquisition Branch (DC Office) and Harpiari for completion of the documentation. Harpiari also replied to queries vide letter dated 04.05.1978 pertaining to the ownership of house bearing no.689 in response to letter dated 02.05.1978 to the satisfaction of the respondent no. 1/Land & Building Department despite earlier submission of affidavit. The Land Acquisition Collector also confirmed the acquisition and compensation vide letter dated 09.02.1978 in response to letter dated 08.11.1977 of the respondent no.1/Land & Building Department. The respondent no.1/Land & Building Department raised queries regarding number and date of notification vide letters dated 2.5.1978, 1.6.1978 and



17.07.1978. The respondent no. 1/Land & Building Department issued letter no. F-32(21)/3/77/ALT/5102 dated 05.02.1979 under signature of Under Secretary (CN) recommending to the Land Sales Officer, DDA i.e. the respondent no. 2 for allotment of alternative plot admeasuring 200 sq. yards to Harpiari, copy of which was also endorsed to Harpiari. The respondent no. 2/DDA issued a provisional demand letter dated 09.04.1979 to Harpiari regarding detailed terms and conditions of the allotment and Harpiari had paid the provisional demand within time. The respondent no. 2/DDA allotted a plot measuring 200 sq. yards (167.226 sq. meter) bearing no. J-275, Malviya Nagar, New Delhi vide letter bearing no. 27(26)/79- LSB(R) dated 27.06.1979 subject to payment of premium amounting to Rs.15,385/- and completion of other formalities. Harpiari deposited the balance premium and cost of preparation of lease deed amounting to Rs.11549.75/- as earnest money amounting to Rs.3846.25/- was already deposited and as such, paid the entire premium/cost of plot within required time frame. The respondent no.2/DDA handed over possession of said plot to Harpiari on 20.03.1980 and also issued a certificate on 20.03.1980. The respondent no. 2/DDA also issued No



Objection Certificate on 08.09.1980 to build and use the land for residential purpose in favour of Harpiari and the plot since then is used for residential purpose.

2.2 Harpiari many times approached the respondent no. 2/DDA for execution of lease but the respondent no. 2/DDA replied that a confirmation of recommendation from the respondent no. 1/Land & Building Department is required for registration of lease as per the instructions of the respondent no.1/Land & Building Department and as such the respondent no. 2/DDA did not execute lease. The respondent no. 2/DDA continued to write letters from 23.04.1981 but no response was received from the respondent no. 1/Land & Building Department. The respondent no. 2/DDA vide DO letter no. F1 (3)80-C(L) dated 12.11.1980 issued under signature of K. L. Bhatia, Commissioner (Lands) in response to DO letter dated 29.10.1980 received from D. S. Mishra, Secretary, Land & Building Department sent a list of recommendation letters received from the respondent no.1/Land & Building Department regarding allotment of alternative plots since 01.04.1978 comprising of 721 cases subdivided into four zones. The respondent no. 1/Land & Building Department vide letter



bearing no. F.15/210/80-L&B-7352 dated 17.02.1981 informed the respondent no. 2/DDA that the matter has been referred to the Vigilance Department in relation to alleged malpractices in issue of recommendation letters in those 721 cases. The case of Harpiari was mentioned at serial no. 86 in the list of south zone as evident from letter dated 05.07.1982 of the respondent no. 1/Land & Building Department. The Vigilance Department, Delhi Administration after enquiry lodged FIR against 138 cases but no FIR was lodged against Harpiari whose name was found in the category of genuine cases. The Vigilance Cell of the respondent no. 1/Land & Building Department vide letter no. F-32(21)/3/77/L&B/VC/15455 dated 02.04.1981 asked Harpiari to submit a copy of *jamabandi* duly certified by the Tehsildar, Delhi for the year 1958-59 or L.R.-4 to show that she was the recorded owner of the acquired land prior to the notification issued under section 4 of the Act so that the recommendation for allotment of alternative plot could be confirmed in favour of Harpiari to the respondent no. 2/DDA. Harpiari vide letter dated 07.07.1981 bearing receipt no. 12566 responded to said query wherein it is stated that *jamabandi* was not affected after



1949-50 and *jamabandi* already submitted was the last *jamabandi* before acquisition of land and Reference Court had also awarded enhanced compensation after considering ownership of Harpiari in respect of acquired land.

2.3 Harpiari executed a registered Will dated 08.09.1981 in favour of Giriraj Singh Bhardwaj, father of the petitioner. Harpiari on enquiry with the respondent no. 1/Land & Building Department regarding confirmation of the allotted plot was informed that the copy of *fard/jamabandi* submitted by her vide letter dated 07.07.1981 could not be traced in the file and was asked to submit original copy of *fard/jamabandi* and *fard/jamabandi* issued on 27.6.1981 was submitted. Giriraj Singh Bhardwaj again submitted the original *jamabandi* issued on 10.12.1981 after getting it attested by the Tehsildar vide letter dated 11.12.1981 as demanded by the respondent no. 1/Land & Building Department. The respondent no.1/Land & Building Department despite submissions of requisite documents did not confirm the allotment. Harpiari also received an endorsement copy of letter bearing F No. 32(21)/3/77-L&B/VC/12160 Dated 24.3.1982 from Vigilance Cell, Land & Building



Department addressed to the Land Acquisition Collector, Tis Hazari wherein a confirmation of acquired land was sought from Land Acquisition Collector, Tis Hazari, Delhi for confirmation of recommendation to DDA. The respondent no. 1/Land & Building Department vide their letter dated 05.07.1982 addressed to Deputy Director (Residential) of the respondent no. 2/DDA asked for a copy of the recommendation letter from the respondent no. 2/DDA followed by a reminder dated 26.08.1982. The respondent no. 2/DDA supplied the photocopy of the recommendation letter vide letter dated 06.09.1982 but the respondent no. 1 did not take any action for about 15 years. Harpiari passed away on 22.12.1985 and said land was bequeathed to Giriraj Singh Bhardwaj in pursuance of registered Will dated 07.09.1981. Giriraj Singh Bhardwaj also expired on 17.05.1996. The respondent no. 1/Land & Building Department again demanded a copy of letter sent by the respondent no. 2/DDA dated 06.09.1982 and copy of its recommendation letter dated 05.02.1979 vide letter dated 16.05.1997 followed by a reminder dated 26.05.1997. The respondent no. 2/DDA supplied these documents their letter dated 01.07.1997 and a request was made for



confirmation. The petitioner became owner of the said plot in pursuance of relinquishment deed executed by other legal heirs of Giriraj Singh Bhardwaj after probate was granted vide the judgment dated 20.03.2004 in petition bearing no. PC-333/2001. The respondent no. 1/Land & Building Department could not trace the recommendation letter issued to the respondent no. 2/DDA and this was the primary basis for the rejection of case of the petitioner for execution of lease. The respondent no. 1/Land & Building Department for the first time came up with a noting on 14.10.2013 that the land allotment to Harpiari was time barred after relying on a public notice stated to be issued on 22.11.1963. The respondent no.1/Land & Building Department received a letter issued by the respondent no. 2/DDA dated 04.04.2013 which was replied by the respondent no. 1/Land & Building Department vide letter dated 17.07.2013. The petitioner also approached the Hon'ble Lieutenant Governor of Delhi for execution of lease in his favour and the Hon'ble Lieutenant Governor asked for a status report from the respondent no. 1/Land & Building Department.



2.4 The respondent no. 2/DDA issued a Show Cause Notice no. F.27(26)79/LAB(Resdl.)/9241 dated 01.11.2013 whereby the respondent no. 2/DDA threatened the petitioner to cancel the allotment of the said alternative plot which was allotted to Harpiari without any basis, reason and merely on the shoddy communication made by the respondent no. 1/Land & Building Department. The petitioner filed a reply dated 19.03.2014 to show cause notice and also made several representations in the year 2013-2014 before the respondent no. 1/Land & Building Department and the respondent no. 2/DDA. The petitioner in pursuance of RTI application was permitted to obtain copies of the required documents and noted observation made by the Hon'ble Lieutenant Governor that the letter dated 05.02.1979 seems to have been issued by the respondent no.1/Land & Building Department. The petitioner sought certified copies of certain crucial documents which were not supplied to the petitioner. The respondent no. 1/Land & Building Department vide letter dated 12.12.2013 communicated the decision to the petitioner that the respondent no. 1/Land & Building Department on the basis of available records denies the issue of any recommendation letter to



the respondent no. 2/DDA and the petitioner was advised not to make any further representations.

2.5 The respondent no. 2/DDA did not respond to the reply of the petitioner to the said show cause notice and due to this, the petitioner filed a Writ Petition bearing no W.P. (C) 2269/2004 and this Court vide order dated 04.04.2014 directed the respondent no. 2/DDA to decide the Show Cause Notice on the basis of the reply submitted by the petitioner. The respondent no. 2 /DDA sent a letter dated 25.04.2014 to the respondent no. 1/Land & Building Department along with a copy of the reply dated 19.03.2014 filed by the petitioner. The respondent no. 2/DDA again sent a letter dated 19.06.2014 to the respondent no. 1/Land & Building Department for confirmation of recommendation regarding allotment of alternative plot and in said letter, reference was made to letter dated 02.04.1981 issued by the Vigilance Cell of the respondent no. 1/Land & Building Department and reply letter sent by Harpiari dated 07.07.1981 thereby confirming veracity of the recommendation letter. The respondent no. 2/DDA in pursuance of order dated 04.04.2014 passed by this Court wrote a letter no. F.27(26)1979/LAB(Resdl.)/2792



dated 20.08.2014 to the petitioner whereby the petitioner was requested to take up his case with the respondent no. 1/Land & Building Department since the allotment of an alternative plot was based on the recommendation issued by the respondent no. 1/Land & Building Department, thereby showing its inability to process the case without any instructions from the respondent no. 1/Land & Building Department. The respondent no. 1/Land & Building Department has denied the issuance of the recommendation letter dated 05.02.1979 for allotment of alternative plot to Harpiari on baseless, unprofound and frivolous grounds after a lapse of 34 years and the respondent no. 1/Land & Building Department with *mala fide* intention refused to direct the respondent no. 2/DDA to execute the perpetual lease deed in favour of the petitioner in connection of the alternative plot allotted against the acquired land of Harpiari. The respondent no. 1/Land & Building Department issued a letter dated 22.09.2014 to the respondent no. 2/DDA reiterating that the respondent no. 1/Land & Building Department on the basis of available records denies the issue of any recommendation letter in favour of Harpiari. The petitioner being aggrieved filed present



petition and challenged action of the respondents no. 1/Land & Building Department and the respondent no. 2/DDA on various grounds including that the act of the respondents in depriving the petitioner of a duly allotted plot of land amounts to violation of his fundamental rights guaranteed under Articles 14 and 21 of the Constitution which is also a violation of the principles of natural justice; the respondent no. 1/Land and Building Department completely ignored the clarification sought by the DDA vide letter dated 19.06.2014; the act of the respondent no. 1/Land and Building Department in denying the issuance of recommendation dated 05.02.1979 to the respondent no. 2/DDA was motivated by *mala fide* intentions; Vigilance Department did not make any adverse observation in respect of the case of the petitioner; the respondent no. 1/Land and Building Department cannot cancel the allotment of alternative plot after an inordinate delay of 34 years merely on presumption, conjectures and surmises; the petitioner who is in possession of the property since 20.03.1980 is now deemed to have acquired prescriptive title over the property by adverse possession. The petitioner has made the following prayer:



- a. **Declare and direct that Plot bearing number J-275, SAKET, NEW DELHI, was validly and legally allotted to the petitioner's Grand Mother by the Respondent No. 1.**
 - b. **Issue a writ of mandamus or in the nature of a mandamus directing the Respondent No. 2 to execute a perpetual lease deed in favor of the petitioner in connection of the said alternative plot allotted against' the acquired land of the petitioner's Grand Mother.**
 - c. **Call for the records and the internal noting of Respondent No.1 and Respondent No.2 pertaining to the plot in question.**
 - d. **And any other/ further Relief(s), Order(s), Direction(s) which this Hon'ble court may deem fit and proper in the facts and circumstances of the case may be passed in favour of the Petitioner and against the Respondents.**
3. The respondents no. 1 and 3 filed a counter affidavit wherein after denying the allegations made in the petition, it is stated that the land of Harpiari admeasuring 8 *bigha* 17 *biswa* was acquired vide award no. 1241 and another piece of land bearing *khasra* no.1481/849 (0-18) & 1478/830 (3-9) belonging to Harpiari was acquired vide award bearing no.1282 and compensation was paid on 22.01.1963. The respondent no. 1/Land & Building Department issued a public notice on 22.11.1963 for information to general public that the individuals whose lands have been acquired for PDD between 01.01.1961 and 15.11.1963 may apply for allotment of alternative plots in the Department by 15.12.1963. The compensation



was paid to Harpiari on 22.01.1963 but Harpiari submitted an application for allotment of alternative plot against the acquired land on 01.11.1977 i.e. after expiry of last date of 15.12.1963 and accordingly as per policy, she was not entitled for allotment of alternative plot. The case of the Harpiari was rejected being time-barred and the available record does not contain any recommendation letter in the name of Harpiari. The respondent no. 1/Land & Building Department received a letter dated 10.04.1997 from the respondent no. 2/DDA whereby confirmation was sought regarding recommendation letter issued by the respondent no. 1/Land & Building Department in the name of Harpiari and in response, a letter dated 16.05.1997 was sent to the respondent no. 2/DDA with a request for providing copy of the recommendation letter but the respondent no. 2/DDA did not send any reply despite reminder sent on 26.05.1997. The respondent no. 2/DDA vide letter dated 01.07.1997 provided a copy of alleged recommendation letter and on examination, certain irregularities were found in recommendation letter such as at the top of the letter file no. F.32(21)/3/77/L&B/Alt which pertains to Harpiari was mentioned, however at the bottom,



file no. F.32(21)/4/78/L&B/Alt which was pertaining to one Gangu s/o Dule Ram was written. The respondent no. 1/Land & Building Department detected that the respondent no. 2/DDA had received certain recommendation letters purported to have been issued by the respondent no. 1/Land & Building Department for allotment of alternative plot but in fact, these letters were never issued and no files were maintained in respect of those letters. The recommendation letters were found to be forged and the matter was reported to the Vigilance Department and a case was registered by the Anti-Corruption Branch. The respondent no. 2/DDA had sent a list of 138 such cases which were found to be bogus and forged which also included name of Gangu Singh. The respondent no. 2/DDA had allotted alternative plot to Gangu in Malviya Nagar on the basis of the recommendation letter which was found forged and later on cancelled the allotment when it was informed by the respondent no. 1/Land & Building Department that the letter was forged. Gangu filed WPC No. 1408/1985 before this Court which was dismissed with cost of Rs.20,000/- vide order dated 15.04.2004. The recommendation letter claimed to have been issued by the respondent



no. 1/Land & Building Department in present petition does not match with the records available in the file and veracity of letter dated 05.02.1979 was not confirmed. The present petition is liable to be dismissed as no recommendation letter was ever issued by the respondent no. 1/Land & Building Department in the name of Harpiari.

4. The respondent no. 2/DDA also filed a counter affidavit wherein it is stated that the name of Harpiari was sent to the respondent no. 2/DDA by the respondent no. 1/Land and Building Department vide letter no.32(21)/4/78/L&B/Alt dated 05.02.1979 and the respondent no. 2/DDA on basis of recommendation allotted a plot no J-275, Malviya Nagar to Harpiari who deposited the premium and also requested that the plot may be mutated in the name of Giriraj Singh Bhardwaj. Harpiari on being asked about her relation with Giriraj Singh, withdrew the request and intimated that she would take possession of the plot and took possession of the plot on 20.03.1980. Giriraj Singh applied for mutation vide letter dated 10.01.1986 and submitted a photocopy of the death certificate of Harpiari and a registered Will. The respondent no. 2/DDA was intimated by DD/Alt



Cell vide letter dated 05.07.1982 that the recommendation for allotment of alternative plot to Harpiari was claimed to have been made but the relevant file does not disclose issuance of any such communication from the respondent no. 1/Land and Building Department. The respondent no. 2/DDA sent letter bearing no. F.27{26}79/LAB{R}/DDA/1174 dated 04.04.2013 to the respondent no. 1/Land and Building Department and reminder bearing no. F.32{21}/3/77 /L&B/ALT dated 17.7.2013 dated 17.07.2013 wherein it was reiterated that no recommendation was ever issued in favour of Harpiari for allotment of alternative plot as per available records. The respondent no. 2/DDA issued a show-cause notice dated 01.11.2013 to the legal heirs of Harpiari and in reply to the said show-cause notice, a letter was received enclosing a copy of letter bearing no. F.32(21)/3/77/L&B/VC/15455 dated 02.04.1981 issued by the Deputy Director, Vigilance Cell, Land and Building Department whereby a copy of *jamabandi* for the year 1958-59 duly certified by the *Tehsildar* was asked for and was required to be submitted for confirmation of the recommendation and in said letter a reference of the reply furnished by Harpiari vide letter dated 07.07.1081 was



made wherein she stated that *jamabandi* for the year 1949-50 was submitted and no *jamabandi* had ever been issued after 1949-50. The respondent no. 2/DDA vide letter dated 17.02.1981 issued by the Joint Secretary, Land and Building Department was clearly advised that no action is to be taken till the recommendations are confirmed by the respondent no. 1/Land and Building Department under the signatures of the Secretary or Joint Secretary of the Land and Building Department. The respondent no. 2/DDA vide its letter dated 23.04.1981 sought clarification as to whether the Delhi Administration has any objection in case the said plot is registered. The respondent no. 2/DDA on the recommendation of the respondent no. 1/Land and Building Department allotted plot no. J-275, Saket and handed the same over to Harpiari but subsequently it was found out that no recommendation letter had ever been issued by the respondent no. 1/Land and Building Department. The respondent no. 1/Land and Building Department has to clarify about the status of the recommendation.

5. The petitioner filed a rejoinder to the counter affidavit filed on behalf of the respondents no. 1 and 3 wherein in preliminary



submissions stated that the respondents no. 1 and 3 are adopting delaying tactics and a considerable period of 35 long years has been elapsed since the petitioner was allotted the plot but the respondents no. 1 and 3 are playing blame games with the petitioner and the respondent no. 2/DDA. The records of respondents no. 1 and 3 are totally contradictory to the facts stated in the counter affidavit. The petitioner, in reply on merits, stated that Harpiari submitted 02 different applications, first on 01.11.1977 and the second thereafter. Harpiari submitted first application in respect of award bearing no. 1241 for *khasras* bearing no. 1485/1331, 1486/1331 and 1487/1331 and second application was submitted in respect of award bearing no. 1282 for *khasras* no. 1481/849 (0-18) and 1478/830 (3-9) situated in Village Baharpur. The respondent no. 1/Land and Building Department accepted the application for allotment of alternative plot submitted by Harpiari and thereafter kept corresponding with her and on various occasions demanded documents from Harpiari. The respondent no. 1/Land and Building Department accepted and entertained application of Harpiari and made a recommendation to the respondent no. 2/DDA and as such the respondent no. 1/Land and



Building Department cannot call the case of Harpiari as time-barred. Harpiari was allotted the plot in question after due consideration and on basis of records, documents and the policy laid down by the respondent no. 1/Land & Building Department. Harpiari duly fulfilled and satisfied all the conditions enumerated by the respondents no. 1 and 3 for allotment of alternative plot. Harpiari was considered a successful applicant after considering and perusing the documents submitted by her and the respondent no. 1/Land and Building Department issued the recommendation letter, allotted the plot and further gave permission to raise construction on the said plot. It was prayed that the present petition be allowed and the relief as sought in the present petition be granted to the petitioner.

6. It is reflecting that the land belonging to Harpiari bearing *khasras* no. 1470/820/2, 1478/830, 1481/849, 1485/1331, 1486/1331 and 1487/1331 situated in Village Baharpur was acquired vide award no.1241 and 1282 in the year 1962 and Harpiari was paid compensation on 22.01.1963 including enhanced compensation in pursuance of judgment passed by the Reference Court. The respondent no. 1/Land & Building Department issued a public notice



on 22.11.1963 to apply for allotment of alternate plot latest by 15.12.1963 to those individuals whose lands have been acquired for PDD between 01.01.1961 and 15.11.1963. Harpiari submitted an application on 01.11.1977 for allotment of alternative plot in lieu of acquired land under the scheme of 'large scale acquisition, development and disposal of land in Delhi' i.e. after expiry of last date of 15.12.1963. The respondent no. 1/Land & Building Department allegedly issued a letter dated 05.02.1979 recommending to the respondent no. 2/DDA for allotment of alternative plot admeasuring 200 sq. yards to Harpiari. The respondent no. 2/DDA allotted a plot measuring 200 sq. yards (167.226 sq. meters) bearing no. J-275, Malviya Nagar, New Delhi vide letter dated 27.06.1979 and possession of the plot was delivered to Harpiari on 20.03.1980. The respondent no. 2/DDA also issued No Objection Certificate on 08.09.1980 to build and use the land for residential purpose in favour of Harpiari. Harpiari also approached the respondent no. 2/DDA for execution of lease but the respondent no. 2/DDA sought confirmation of recommendation from the respondent no. 1/Land & Building Department before execution of lease. The respondent no. 2/DDA



vide DO letter dated 12.11.1980 sent a list of recommendation letters received from the respondent no. 1/Land & Building Department regarding allotment of alternative plots since 01.04.1978. The respondent no. 1/Land & Building Department vide letter dated 17.02.1981 also informed the respondent no. 2/DDA about alleged malpractices in issue of recommendation letters and reference of matter to Vigilance Department. The respondent no. 1/Land & Building Department vide letter dated 05.07.1982 issued to the respondent no. 2/DDA asked for a copy of the recommendation letter which was supplied by the respondent no. 2/DDA vide letter dated 06.09.1982. Harpiari passed away on 22.12.1985 and during her lifetime, she was stated to have executed a registered Will dated 08.09.1981 in favour of Giriraj Singh Bhardwaj who was father of the petitioner and the petitioner subsequently claimed to have become the exclusive owner of the plot. The recommendation letter issued to the respondent no. 2/DDA could not be traced by the respondent no. 1/Land & Building Department and due to this reason lease in respect of plot could be executed. The respondent no. 2/DDA issued a Show Cause Notice dated 01.11.2013 which was replied by the



petitioner vide reply dated 19.03.2014. The respondent no. 1/Land & Building Department vide letter dated 12.12.2013 communicated the decision to the petitioner that the respondent no. 1/Land & Building Department on the basis of available records denies the issue of any recommendation letter to the respondent no. 2/DDA. The petitioner filed a Writ Petition bearing no W.P. (C) 2269/2004 and the respondent no. 2 vide order dated 04.04.2014 was directed to decide the Show Cause Notice. The respondent no. 2/DDA vide letter dated 10.04.1997 sought confirmation of recommendation regarding allotment of alternative plot from the respondent no. 1/Land & Building Department and the respondent no. 1/Land & Building Department denied the issuance of the recommendation letter dated 05.02.1979 for allotment of alternative plot to Harpiari. The respondent no. 1/Land & Building Department claimed that Harpiari was not entitled for allotment of alternative plot as per policy and her case was rejected being time-barred and the record does not contain any recommendation letter in favour of Harpiari.

7. The counsel for the petitioner in written submissions about factual background of case stated that the land falling in *khasra* no.



1478/830 and 1481/849 situated in Village Bahapur and belonged to Harpiari was acquired vide Award no. 1282 and Harpiari on 01.11.1977 submitted an application for allotment of alternative plot and the respondent no. 1/Land & Building Department issued a recommendation letter dated 05.02.1979 for allotment of alternative plot measuring 200 sq. yards to the respondent no. 2/DDA and thereafter the respondent no. 2/DDA issued a provisional demand letter dated 09.04.1979 to Harpiari who paid provisional demand within time and thereafter the respondent no. 2/DDA allotted a plot measuring 200 sq. yards bearing no. J-275, Malviya Nagar vide letter no. 27(26) /79- LSB(R) dated 27.08.1979. The respondent no. 2/DDA also issued the certificate of possession dated 20.03.1980 and NOC dated 08.09.1980 to build and use the land for residential purposes in favour of Harpiari after receipt of cost of plot. The counsel for the petitioner further stated that the respondent no. 1/Land & Building Department vide letter dated 05.07.1982 in response to the letter dated 12.11.1980 of the respondent no. 2/DDA asked the respondent no. 2/DDA for a copy of the recommendation letter dated 05.02.1979 and the respondent no. 2/DDA vide letter



dated 06.09.1982 provided a copy of the recommendation letter dated 05.02.1979. Harpiari passed away on 22.12.1983 leaving behind a registered Will dated 08.09.1981 in favour of Giriraj Singh Bhardwaj, father of the petitioner. The respondent no. 1/Land & Building Department vide letter dated 16.05.1997 and reminder dated 26.05.1997 demanded a copy of letter sent by the respondent no. 2/DDA dated 06.09.1982 and a copy of recommendation letter dated 05.02.1979. The respondent no. 2/DDA vide letter dated 01.07.1997 supplied copies of letter dated 06.09.1982 along with a copy of the recommendation letter dated 05.02.1979 and copy of the letter dated 05.07.1982 issued by the respondent no. 1/Land & Building Department. The petitioner, after demise of Giriraj Singh Bhardwaj, owner of the plot, in pursuance of the Relinquishment Deed dated 15.09.2007 executed by other legal heirs in favour of the petitioner. The respondent no. 2/DDA on 04.04.2013 confirmed eligibility of the petitioner on the basis of the recorded ownership of the acquired land. The respondent no. 1/Land & Building Department on 17.07.2013 on basis of available records did not confirm veracity of the recommendation letter dated 05.02.1979 but did not allege



forgery or fabrication or manipulation. The respondent no. 2/DDA issued a show cause notice dated 01.11.2013 to the petitioner and this Court vide order dated 04.04.2014 directed the respondent no. 2/DDA to decide on the show-cause notice. The respondent no. 1/Land & Building Department did not confirm the recommendation, hence the petitioner filed the present writ petition.

7.1 The counsel for the petitioner argued that the respondent no. 2/DDA supported case of the petitioner and in counter affidavit admitted that the respondent no. 1/Land & Building Department sent a recommendation letter dated 05.02.1979 in the name of Harpiari and the respondent no. 2/DDA on the recommendation of the respondent no. 1/Land & Building Department allotted plot no. J-275, Malviya Nagar and thereafter Harpiari deposited the premium and the possession of the plot was delivered to Harpiari on 20.03.1980. The respondent no. 2/DDA also admitted letters dated 05.07.1982 and 26.08.1982 issued by the respondent no. 1/Land and Building Department and response of the respondent no. 2/DDA dated 06.09.1982. It was further argued that case of the petitioner is genuine.



7.2 The counsel for the petitioner in response to contention of the respondents no. 1 and 3 argued that the respondents no. 1 and 3 in counter affidavit admitted that the respondent no. 1/Land & Building Department admitted acquisition of land of Harpiari bearing *khasras* no. 1478/830 and 1481/849 situated in village Baharpur vide Award no. 1282 and payment of compensation on 22.01.1963 and submission of application for allotment of alternative plot by Harpiari on 01.11.1977. The counsel for the petitioner further argued that the respondent no. 1/Land & Building Department resisted execution of lease deed on ground that the application dated 01.11.1977 submitted by Harpiari for allotment of alternate plot was rejected being time-barred in view of public notice dated 22.11.1963 and file noting dated 25.05.1982 to the effect that **“the recommendations made to the DDA may be withdrawn”**. The counsel for the petitioner to counter the said contention of the respondents no. 1 and 3 argued that the respondent no. 1/Land & Building Department never issued rejection letter to Harpiari in pursuance of noting dated 25.05.1982 and if case of petitioner was rejected on 25.05.1982 then the respondent no. 1/Land & Building Department would not issue



letters dated 05.07.1982, 16.05.1997 and 26.05.1997 for seeking copy of the recommendation letter dated 05.02.1979 and the respondent no. 2/DDA vide letter dated 01.07.1997 had supplied the said copy of the recommendation letter. The respondent no. 1/Land & Building Department never raised plea of time bar in its earlier correspondences and the said plea is afterthought. The counsel for the petitioner relied on **Govt. of NCT of Delhi V Poonam Gupta, 2015 SCC Online Del 13854** and **Raghu Nath Singh V Union of India & Others, 44 (1991) DLT 545**. The counsel for the petitioner, to counter contention of the respondent no. 1/Land & Building Department that recommendation letter dated 05.02.1979 issued to Harpiari was found having irregularities, argued that the respondent no. 1 has taken this plea for first time in the Court and did not take such plea in any correspondence till 2015 and said plea is an afterthought and misplaced. It was further argued that due to typographical error on the recommendation letter dated 05.02.1979, the case of the petitioner cannot be assumed to be amongst the forged cases. The counsel for the petitioner also rebutted the argument raised on behalf of the counsel for the respondents no. 1 and 3 that the



present writ is not maintainable and appropriate remedy is to file a civil suit. The counsel for the petitioner further argued that argument raised on behalf of the respondents no. 1 and 3 that letter dated 05.02.1979 issued in favour of Harpiari is not traceable in the record of the respondent no. 1/Land & Building Department is not sustainable as the letter dated 05.07.1982 issued by the respondent no. 1/Land & Building Department reflects that the recommendation letter was issued by the respondent no. 1/Land & Building Department and the veracity or the existence of the recommendation letter cannot be doubted the respondent no. 2/DDA in counter affidavit admitted that the recommendation letter dated 05.02.1979 was provided by the respondent no. 1/Land & Building Department and the respondent no. 2/DDA allotted plot no. J-275 after acting upon the recommendation letter to Harpiari. It was argued that the petitioner cannot be allowed to suffer as the respondent no. 1/Land & Building Department could not trace recommendation letter in its record. The counsel for the petitioner argued that the petition be allowed and relief claimed in present petition be granted in favour of the petitioner.



8. Mr. Siddharth Panda, the counsel for the respondents no. 1 and 3 referred the factual position and stated that Harpiari who was stated to be the predecessor-in-interest of the petitioner was stated to have been allotted alternative residential plot bearing no. J-275, Malviya Nagar in lieu of acquisition of land on 27.08.1979 by the respondent no. 2/DDA and possession was also delivered on 20.03.1980 but lease deed was not executed in favour of the petitioner even after lapse of more than 34 years. The respondent no. 2/DDA sent a list of about 721 cases and sought confirmation of recommendations from the respondent no. 1/Land & Building Department and the respondent no. 1 informed that 128 cases appeared to be forged as no files had been opened by the respondent no. 1/Land & Building Department, hence the matter was referred to Vigilance Department and accordingly issue of execution of lease was kept in abeyance. The respondent no. 1 vide letter dated 12.12.2013 denied the petitioner and the respondent no.2/DDA about issuance of any recommendation letter to the respondent no. 2/DDA. Mr. Siddharth Panda argued that the respondent no. 1/Land & Building Department issued a public notice on 22.11.1963 whereby general public whose



lands were acquired between 01.01.1961 and 15.11.1963 was asked to apply for allotment of alternative plot till 15.12.1963 but Harpiari applied for allotment of alternative plot on 01.11.1977 i.e., after the last date of 15.12.1963 and Harpiari, as per policy, was not entitled for allotment of alternative plot and accordingly her application was rejected on 25.05.1982 being time-barred and available record does not speak about issuance of any recommendation letter in favour of Harpiari. He further stated that the respondent no. 2/DDA provided copy of alleged recommendation letter vide letter dated 01.07.1997 and on examination, certain irregularities were noticed and argued that alleged recommendation letter was never issued by the respondent no. 1/Land & Building Department and no such file was ever maintained in respect of recommendation letter. It was argued that the present petition be dismissed.

9. Ms. Manika Tripathy, the counsel for the respondent no. 2/DDA advanced oral arguments and also submitted written submissions. The counsel for the respondent no. 2/DDA besides referring factual background argued that the respondent no. 1/Land & Building Department has to clarify status of the recommendation and



the respondent no. 2/DDA did not confirm issuance of recommendation letter. It was stated that the respondent no. 1/Land & Building Department sent name of Harpiari to the respondent no. 2/DDA vide letter No. 32(21)/4/78-L&B/Alt dated 05.02.1979 and the respondent no. 2/DDA on recommendation had allotted plot no. J-275 to Harpiari who deposited the premium. Harpiari vide letter dated 26.09.1979 requested for mutation of plot in the name of Giriraj Singh Bhardwaj but subsequently Harpiari took possession of the plot on 20.03.1980. DD/Alt Cell vide letter no. F.32(21)3/77/L&B/VC dated 05.07.1982 had intimated the respondent no. 2/DDA that the relevant record does not disclose issuance of any communication for recommendation of alternative plot to Harpiari. The respondent no. 2/DDA issued a show cause to legal heirs of Harpiari vide office letter no. F.27(26)79/LAB(R)/DDA/9241 dated 01.11.2013 for clarification which was replied to by the petitioner. The respondent no. 1/Land & Building Department through Joint Secretary, (L&B) vide letter issued on 17.02.1981 advised the respondent no. 2/DDA that no action in certain cases should be taken till the recommendation are



confirmed by the respondent no. 1/Land & Building Department. The respondent no. 2/DDA vide letter dated 23.04.1981 requested for clarification.

10. The issue which needs consideration is that whether the petitioner, who claims to be the successor-in-interest of Harpiari, is entitled for execution of lease deed in respect of alternative plot admeasuring 200 square yards bearing no. J-275, Malviya Nagar which was allotted by the respondent no. 2/DDA to Harpiari in lieu of acquisition of land on 27.08.1979. The respondent no. 2/DDA stated to have received letter no. F-32(21)/3/77/ALT/5102 dated 05.02.1979 under signature of Under Secretary (CN) of the respondent no. 1/Land & Building Department recommending to the Land Sales Officer, DDA/the respondent no. 2 for allotment of alternative plot admeasuring 200 sq. yards to Harpiari, the genuineness of which is disputed by the respondent no. 1/ Land & Building Department.

11. Mr. Siddharth Panda, the counsel for the respondents no. 1 and 3 argued that the application for allotment of alternative plot submitted by Harpiari on 01.11.1977 was time-barred being



submitted after late date of 15.12.1963 in pursuance of public notice issued on 22.11.1963 and as such, the application was rejected on 25.05.1982 being time-barred. The counsel for the petitioner argued that the respondent no. 1/Land & Building Department refused execution of lease deed as application dated 01.11.1977 submitted by Harpiari for allotment of alternate plot was time-barred in pursuance of public notice dated 22.11.1963 and subsequent file noting dated 25.05.1982 to the effect that **“the recommendations made to the DDA may be withdrawn”** but the respondent no. 1/Land & Building Department never issued rejection letter to Harpiari in pursuance of noting dated 25.05.1982. It was further argued that if case of petitioner was rejected on 25.05.1982, then the respondent no. 1/Land & Building Department would not have issued the letters dated 05.07.1982, 16.05.1997 and 26.05.1997 for seeking copy of the recommendation letter dated 05.02.1979 and the respondent no. 2/DDA vide letter dated 01.07.1997 had supplied the said copy of the recommendation letter. The counsel for the petitioner relied on **Govt. of NCT of Delhi V Poonam Gupta, 2015 SCC Online Del**



13854 and **Raghu Nath Singh V Union of India & others**, 44 (1991) DLT 545.

11.1 A public notice can be considered to be an announcement made by the government or its any public authority which may be published in any newspaper or otherwise and purpose of a public notice may be to inform the general public about any policy decision or change therein taken by the government or any public authority. A public notice is important as it intends to keep general public or interested parties aware about the relevant information. This Court in **NCT of Delhi V Poonam Gupta**, 2015 SCC Online Del 13854 and also relied upon by the counsel for the petitioner referred **Simla Devi V Secretary**, W.P.(C) No 16425/2004 decided on 28.03.2007 wherein it was observed that a public notice is neither a statutory notice nor gazetted notice which is presumed to have been known by everyone and if notice was published in the newspapers only once in 1993, then it is unrealistic and impractical to presume that someone in 1997 applying for allotment of alternative land should be presumed to know the time limit which is stipulated in a notice printed in the newspaper four years earlier. This court in **NCT of**



Delhi V Poonam Gupta (*supra*) observed 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. It was further observed that the long delay in making the application under the Scheme 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. The counsel for the petitioner also relied on **Raghu Nath Singh V Union of India & others**, 44 (1991) DLT 545 wherein the Division Bench of this Court after relying on **S.B. Kishore V Union of India**, AIR 1991 SC 90 observed that in cases in which explanation was found to be satisfactory, the Delhi Administration has been using its discretion to condone the delay and granted alternative plots and the Delhi Administration having once accepted the explanation of the petitioner and recommended the allotment of alternative plot and the Delhi Development Authority having reserved a plot for the petitioner then it is difficult to sustain the subsequent action of the respondents



withdrawing the allotment on the basis of the general policy decision taken by the Chief Secretary, Delhi Administration at some later stage.

11.2 It is true that the respondent no. 1/Land & Building Department invited applications for allotment of alternative plots in pursuance of public notice dated 22.11.1963 latest by 15.12.1963 from individuals whose lands have been acquired during the period between 01.01.1961 and 15.11.1963 but Harpiari submitted such application on 01.11.1977 i.e. after expiry of last date of 15.12.1963 and inordinate delay of 12 years. The application for allotment of alternative plot submitted by Harpiari as such, was time-barred and due to this reason, the respondent no. 1/Land & Building Department did not allot alternative plot to Harpiari. The perusal of noting dated 25.05.1982 also reflected that the case of Harpiari for allotment of alternative plot was rejected being time-barred and recommendation made to the respondent no. 2/DDA was ordered to be withdrawn. There was as such, no occasion for the respondent no. 1/Land & Building Department to allot alternative plot to Harpiari in lieu of acquired land validly and legally once the application for allotment of



alternate plot was not made in time and moreover, there was unexplained delay of about 12 years. The noting dated 25.05.1982 also reflected that recommendation was not placed on file/record. A public notice does have its relevance and significance and cannot be rejected or discarded merely on ground of delay if not properly explained. Even if it is presumed that Harpiari was not having knowledge of public notice but neither Harpiari nor the petitioner has explained inordinate delay of about 12 years in submitting application for allotment of alternative plot. The short delay in responding to public notice can be understandable but inordinate delay of 12 years cannot be condoned easily particularly when there is no record of issuance of recommendation letter by the respondent no. 1/Land & Building Department. Further, the argument advanced by the counsel for the petitioner that if case of petitioner was rejected on 25.05.1982, then the respondent no. 1/Land & Building Department would not have issued letters dated 05.07.1982, 16.05.1997 and 26.05.1997 for seeking copy of the recommendation letter dated 05.02.1979 and the respondent no. 2/DDA vide letter dated 01.07.1997 had supplied the said copy of the recommendation



letter are also considered. The arguments advanced by the counsel for the petitioner are without any basis as noting dated 25.05.1982 reflects that recommendation to allot alternative plot to Harpiari was also not available on record and once recommendation was not on record there was no occasion for the respondent no. 1/Land & Building Department to convey rejection to Harpiari.

12. The respondent no. 1/Land & Building Department vide letter dated 16.05.1997 and subsequent reminder dated 26.05.1997, requested the respondent no. 2/DDA to provide a copy of recommendation letter issued by the respondent no. 1/Land & Building Department for purpose of confirmation of recommendation in favour of Harpiari. The respondent no. 2/DDA vide letter dated 01.07.1997 provided a copy of the recommendation letter dated 05.02.1979. The counsel for the respondents no. 1 and 3 argued that certain irregularities were noticed on examination in copy of recommendation letter which was provided by the respondent no. 2/DDA and the alleged recommendation letter was never issued by the respondent no. 1/Land & Building Department. The counsel for the petitioner argued that allegation of alleged irregularities found



in the copy of recommendation letter dated 05.02.1979 supplied by the respondent no. 2/DDA vide letter dated 01.07.1997 to the respondent no. 1/Land & Building Department is an afterthought and baseless as the respondent no. 1/Land & Building Department never took such plea till filing of reply. It was further argued that the respondent no. 1/Land & Building Department is confusing file no. F.32(21)/3/77-L&B/Alt./5102 pertaining to Harpiari with file no. F.32(21)/4/78-L&B/Alt./5202 pertaining to Gangu Singh and it was merely a typographical error.

12.1 The perusal of recommendation letter dated 05.02.1979 reveals that it contains two different file numbers which are F.32(21)/3/77-L&B/Alt./5102 at the top stated to be pertaining to Harpiari and F.32(21)/4/78-L&B/Alt./5202 stated to be pertaining to Gangu Singh who was allotted plot at Malviya Nagar but allotment was cancelled as it was outcome of a forged recommendation letter. It is also pertinent to mention that there is no record available with the respondent no. 1/Land & Building Department regarding issuance any recommendation letter to the respondent no. 2 for allotment of alternative plot to Harpiari. The recommendation letter dated



05.02.1979 alleged to have been issued in favour of Harpiari for allotment of alternative plot by the respondent no. 1/Land & Building Department to the respondent no. 2/DDA does not inspire any confidence in absence of any convincing material indicating towards issuance of recommendation letter dated 05.02.1979 and its genuineness is under clouds of suspicion. There is no force in argument advanced by the counsel for the petitioner that alleged irregularities in recommendation letter were typographical errors under given facts and circumstances of case. It does not make any difference if the respondent no. 1/Land & Building Department took plea of irregularities at a much later stage as it was for the petitioner to establish that the recommendation letter dated 05.02.1979 was a genuine document. There is no material to establish that the recommendation letter dated 05.02.1979 travelled from the respondent no. 1/Land & Building Department to the respondent no.2/DDA after being issued or dispatched.

13. The respondent no. 2/DDA issued a Show Cause Notice dated 01.11.2013 to the petitioner which was replied to by the petitioner vide reply dated 19.03.2014. The respondent no. 1/Land & Building



Department vide letter dated 12.12.2013 as per available record, also communicated to the petitioner regarding denial of issuance of any recommendation letter to the respondent no. 2/DDA. The respondent no. 2/DDA vide letter dated 10.04.1997 issued in pursuance of order dated 04.04.2014 passed in Writ Petition bearing no W.P.(C) 2269/2004 sought confirmation of recommendation from the respondent no. 1/Land & Building Department regarding allotment of alternative plot to Harpiari but the respondent no. 1/Land & Building Department denied the issuance of any such recommendation letter dated 05.02.1979. There is no material or document which can convincingly establish that the recommendation letter dated 05.02.1979 for allotment of alternative plot was ever issued to Harpiari. The petitioner, being successor-in-interest of Harpiari is not entitled for any relief on basis of alleged recommendation letter dated 05.02.1979. There is no evidence or material to prove or establish that the recommendation letter dated 05.02.1979 was ever issued to Harpiari and was actually sent to the respondent no. 2/DDA although a copy of recommendation letter dated 05.02.1979 was available in record of the respondent no. 2/DDA but this doesn't mean that the



respondent no. 2/DDA received genuine recommendation letter for allotment of alternative plot to Harpiari. The arguments advanced by the counsel for the petitioner are considered in right perspective but do not provide any legal support to the case of the petitioner.

14. In view of the above discussion, the present petition is dismissed. Pending applications, if any, also stand disposed of.

**DR. SUDHIR KUMAR JAIN
(JUDGE)**

JULY 30, 2024

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