

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

% **Date of order : 8th September, 2022**

+ W.P.(C) 6865/2018

JOGINDER SINGH PHORE AND ORS Petitioner

Through: Mr. B.N. Gaur, Advocate
(Through VC)

versus

STATE OF NCT OF DELHI Respondent

Through: Mr. B. Mahapatra, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 and 227 of the Constitution of India has been filed on behalf of the petitioners seeking following reliefs:-

“A) Issue appropriate writ, order or direction for quashing/setting aside the order No. F.31(4)/9/86/L&B/Alt./16263 dated 10.03.2017 Issued by the Respondent;

B) Issue directions to the Respondent to recommend to the Delhi development Authority to allot alterative plot to the Petitioners in lieu of their land acquired vide award No. 1959 in village Hastsal for Planned Development of Delhi;..”

2. The Government of National Capital Territory of Delhi

(hereinafter, referred to as 'GNCTD') vide notification No. F.15(245)/60-LSG/L&H dated 24th October 1961, under the provisions of Land Acquisition Act, 1894 had acquired the total land measuring 1408 Bighas and 05 Biswas for planned development of Delhi. Out of the above stated land, the land of the predecessor of Petitioners with other measuring 689 Bighas 08 Biswas was also acquired by the GNCTD and in lieu of that land the predecessor of the Petitioner and co-sharer were compensated.

3. Vide letter No. 37/16/60-Delhi(i) dated 2nd May 1961, Ministry of Home Affairs, Union of India introduced the scheme of allotment of alternative plots in lieu of acquired land under "Large Scale Acquisition Development & Disposal of Land In Delhi". It is not disputed that the Respondent is the implementing agency of the above-mentioned scheme in the National Capital Territory of Delhi. In accordance with this policy, the father of the petitioner applied for allotment of an alternative plot on 4th November 1986 having registration No. 12147.

4. The Respondent vide letter No.31(4)/9/86/L&B/Alt./4202 dated 4th February 1991 asked the father of the Petitioners to submit certain documents viz. Fard Khatauni. In response to this, the Petitioners' predecessor submitted the Khatauni of their land. The Respondent issued another letter No. 31(4)/9/86/L&B/Alt./31624 dated 11th October 1991, asking the fathers of the petitioner to submit documents. The Petitioners have disputed the receipt of the said letter. In furtherance of this, the Respondent issued another letter No. 31(4)/9/86/L&B/Alt./58556 dated 9th December 1991, reminding the Petitioners to submit the documents. The Petitioners have disputed the receipt of the said letter as well.

5. As a corollary, the Respondent issued a letter No.31(4)/9/86/L&B/Alt./918 dated 8th January 1992 stating therein that the case of the Petitioners' father was closed. Contents of the letter dated 8th January 1992 is being reproduced herein below:

"Kindly refer to this office letter of even No. dated 11.10.91 and subsequent reminder dated 09.12.1991 sent by under registered AD. in which you were asked to supply the requisite document/information by 16.12.1991. As you failed to comply with the office letter cited above. I am directed to inform you that in the absence of the documents/information, it is not possible for this Administration to process your case any further/ hence closed."

6. The predecessor of the Petitioners in response to the letter dated 8th January 1991, sent a letter dated 5th March 1992, stating therein that the applicant (father of the Petitioners) was suffering from various ailments and was under treatment from December 1991 to February 1992, and hence he should be provided with another opportunity to submit the requisite documents. A similar request was made by the predecessor of the Petitioners vide letter dated 20th October 1994.

7. The Respondent accepted the request of the father of the Petitioners and in the noting dated 9th December 1994, they were allowed to submit the requested documents. But this did not tantamount to re-opening the case. Noting dated 9th December 1994, of the file are being reproduced below:-

"May kindly see the application of Shri Khajan Singh & Gautam Singh S/o Tara Chand regarding reopening of his closed case. The case of the; applicant was closed on 8.1.92"

as he did not submit the required document as per letter dt. 4/2/91, 11/10/91 & 9/12/91 (pages 36/C to 38/C) He has now requested in his letter dt 20/10/94 received in this branch on 10/11/94 that he did not receive any letter but now ready to submit required documents as & when ask the applicant to submit the following document."

- 1) List of LRs' of Sh. Tara Chand the deceased*
- 2) Death certificate of Sh. Tara Chand*
- 3) Relinquishment Deed & Indemnity Bond duly registered by SR Delhi*

*Sd/- - :
9/12/94
Please AHC LA*

Submitted

We may direct him to file necessary documents before reopening the case

Sd/-12/12/94"

8. The necessary documents were filed by the Petitioner and was acknowledged by the Respondent in their file in the following manner: -

"Shri Gautam Singh & Khajah Singh. The applicants have now submitted the required documents viz. an affidavit stating therein that their brothers Shri Sukhbir Singh & Satbir Singh have died and secondly they are the only legal heirs of late Shri Tar Chand. The applicants namely Gautam Singh & Khajan Singh have also filed; death certificates of late Sh. Sukhbir Singh & Satbir Singh, placed on the file at pages 44/C, 45/C & 46/C."

The applicants have now filed all the relevant & required documents, if approved we may process the case further.

Sd/- , .

12/10/95

Submitted Please

9. The Petitioners sent a detailed representation dated 13th October 2016 to the Respondent requesting therein that they have submitted all the necessary documents hence they are entitled to be allotted alternative plot in their favour. Further, neither any reply has been received by the Petitioners nor any action has been taken on their representation.

10. Aggrieved by the alleged inaction on the part of Respondent, the Petitioners' have approached this court under Article 226 and Article 227 of the Constitution of India.

11. The learned counsel appearing on behalf of the Petitioners submitted that despite having submitted all the documents they have not been allotted alternate plot till date and are still standing in queue for allotment of their plot.

12. The learned counsel appearing on behalf of the Respondent submitted the case of the predecessor of the Petitioner was closed due to non-receipt of the required documents even after reminders being sent to him. He further contended that after the closure of case the legal representatives of Late Sh. Gautam Singh & Sh. Khazan Singh vide their letter dated 13th October 2016 had requested the Respondent office to process the above said file and the Respondent after obtaining the opinion of the DLA, Writ Cell and approval of the Secretary (Land & Building Department) informed the applicant vide letter dated 10th March 2017 that cases once rejected / closed cannot be re-opened / reconsidered unless there is an order of competent court of law.

13. Heard learned counsel for the parties and perused the record. At the outset, this is a fit case wherein the maxim *vigilantibus non dormientibus jura subveniunt* is fully attracted. The above maxim entails that law will come to the aid of only those who are vigilant about their rights and do not sleep over their rights.

14. In a similar factual scenario, a Division Bench of this Court in **Government of NCT of Delhi vs Jangli Ram & Ors., LPA No. 112/2015**, noted that:-

“11 ...there is an element of urgency and rehabilitation in the scheme for allotment of alternative plots and finding the petitioner therein to have filed the writ petition after a delay of thirteen years, upheld the order of dismissal of writ petition. An applicant for alternative land in lieu of acquired land, who sleeps over his / her right cannot wake up as and when he / she desires and claim allotment of alternative land. The Scheme of allotment of alternative residential plot in lieu of acquired land is rehabilitative in nature and considering that such allotment of alternative land is in lieu of acquired land, there is an element of urgency therein. Once an applicant is found to have not been diligent in pursuing such an application and / or is found to have slept over the matter, it has but to be presumed that he / she is not interested and not in need of any welfare rehabilitative measure.

It cannot be lost sight of that the full bench of this Court in Ramanand Vs. Union of India AIR 1994 Delhi 29 has held that the Scheme does not vest any right in anyone to alterative land and that the only right under the Scheme is a right to be considered; it is for the applicant to take steps for his / her case to be considered and if does not take such steps, cannot claim that any right has been violated.

13 ... we may observe that in Raj Karan (supra) the Division Bench of this Court finding the applicant to have, after closure of his case, to have remained quiet and to have gone into deep slumber and having been not diligent in pursuing his case for allotment of alternative land and further finding the scheme to be not permitting reopening of a closed matter, held the applicant to be not entitled to any relief... ”

14. In the present factual narration, it is not disputed that vide letter No. 31(4)/9/86/L&B/Alt./918 dated 8th January 1992, the Respondent had closed the case of the predecessor of the petitioner . This letter was duly received by the Petitioner’s father. Despite being in knowledge of the same and even after sending multiple letters by way of which the Petitioners’ predecessor had submitted all the requisite documents to the Respondent in the year 1995, no positive response was received from the Respondent. It was expected out of a bona fide litigant to then and there approach this court seeking the relief which has now been claimed belatedly. Suddenly, after sleeping over their rights for around 22 years, the Petitioners have approached this court. The Respondent has categorically stated that cases once rejected / closed cannot be re-opened / reconsidered unless there is an order of a competent court of law.

15. In the opinion of this Court, the present petition is misconceived and nothing but a gross abuse of the process of law and is also clearly barred by being infected with delays and laches. Law favours only those who are alive as to their rights and not those who sleep over their rights. The case of the Petitioner is also covered by the above-stated case laws and is liable to be rejected at the threshold.

16. Therefore, the present writ petition fails being devoid of any merit and is accordingly dismissed. Pending application, if any, also stands dismissed.

17. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 8, 2022

Aj/mg



नित्यमेव जयते