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

+ **W.P.(C) 1608/2012**

KAMLESH SETHI

..... Petitioner

Through: Mr. Balvinder Ralhan, Advocate

versus

LAND AND BUILDING DEPARTMENT

AND ANR

..... Respondents

Through: Mr. Arun Birbal, Advocate for R-1

Ms. Latika Dutta, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **30.04.2015**

1. This is a writ petition filed to seek a direction against the respondent for allotment of an alternate plot.

1.1 It is the petitioner's case that her plot was acquired in 1978. The averment made in respect of the relief sought, in the petition, is that, the petitioner was the owner of the property situate in Khasra no.689/109, in Village Sarai Peepli Thala, in Mohindra Park, Block-Z Extension, Delhi, which is now known as Jahangir Puri (in short the property).

1.2 The petitioner, submits that for being allotted an alternate plot, on account of compulsory acquisition of her property, an application was filed with respondent no.1, on 29.07.1978.

1.3 It is also the case of the petitioner that respondent no.1, had

sought certain documents vide communication dated 08.01.1980 which were also furnished, as demanded by the said respondent.

1.4 Furthermore, the petitioner avers that a declaration was filed with respondent no.1 that she did not own any residential plot or house in Delhi (excluding village abadi) or New Delhi or even in Delhi Cantt.

1.5 The case of the petitioner, is that, she has been a resident of Maharashtra all this while and that respondent no.1 has not allotted a plot despite the acquisition of her property. To support her case that she was the owner of the aforementioned property, a photocopy of the sale deed, which is appended as, Annexure P-2 at pages 25-26, of the paper book, is relied upon.

1.6 What is to be noted is that after more than three decades, the petitioner, for the first time, wrote to the first respondent, on 13.07.2010 with respect to the issue pertaining to non-allotment of an alternate plot.

1.7 This letter was followed by two other communications dated 20.09.2010 and the letter dated 03.02.2011 written to the Chief Minister of Delhi. With the latter communication, copy of certain documents including the purported registered sale deed dated 03.04.1972, was also appended, which, as indicted above, is appended as Annexure P-2.

1.8 The aforesaid was followed by a legal notice issued to the respondent by the petitioner via its advocate. The said legal notice is dated 26.02.2011.

1.9 Recourse was taken by the petitioner to the Right to

Information Act, 2005 as well. The petitioner did not succeed at the PIO level and therefore, the matter was escalated with the first appellate authority.

2. Consequent thereto, the following reply, evidently, was received by the petitioner's husband, Mr. Tilak Raj :-

“..With reference to your RTI application ID No.5251/11, the point wise reply of your application is as under :-

1. The information sought could not be provided for want of file No. in the RTI application.
2. Pertains to LAC (North-West).
3. Pertains to DDA.
4. As in 3 above.
5. You may obtain a copy of the policy available on the departmental website www.delhigovt.nic.in
6. Pertains to LAC..”

2.1 I am informed by the counsel for the petitioner that the matter was not escalated to the next level i.e., Central Information Commission.

2.2 The petition has been filed, broadly, in the background of the aforesaid facts.

3. In the counter affidavit, respondent no.1 has taken the following defences :-

- (i). that the purported sale deed is not on the face of it, a registered document;
- (ii). no proof of receipt of compensation has been attached by the petitioner;
- (iii). despite efforts, no application submitted by the petitioner has

been found in the record, therefore, presumably the application would have been rejected long ago for the reason that there is no policy for acquisition of residential plots;

(iv). that the petitioner has not pursued her case for allotment of alternate plot for a period of three decades; and

(v). that the allotment of alternate plots in lieu of acquired land under “Larger Scale Acquisition Development and Disposal of Land in Delhi Scheme”, which was promulgated on 02.05.1961, applies only to agricultural land. Admittedly, in this case, the land which was, purportedly, acquired, was not an agricultural land.

3.1 The learned counsel for the petitioner says that no answer to the documents filed by the petitioner would show that, firstly, an application dated 29.07.1978 was filed; and secondly, that documents were submitted pursuant to the communication of respondent no.1, dated 08.01.1980.

3.2 Mr. Birbal, on the other hand, apart from what is stated in the counter affidavit stated that there is no reference whatsoever to any acquisition proceedings. The proceedings under the Land Acquisition Act, 1894 would have ordinarily entailed steps under sections 4 and 6 of the said Act, which if, acquisition was completed would have resulted in an award. Mr. Birbal says that there is no whisper of any of these proceedings having been taken up qua the petitioner’s land.

4. Having heard the learned counsel for the parties, I am of the view that notwithstanding the aforesaid, what is glaring is that the petitioner has made no attempt to press ahead with what she claims was her right to an alternate plot within a reasonable time frame. The

first time, that the petitioner, took any such step, in that, direction was admittedly when, a letter dated 13.07.2010, was addressed to respondent no.1.

4.1 Apart from the above, there is also the issue of credibility of the petitioner. In the declaration, supposedly, filed by the petitioner in 1980s with respondents when, she laid claim for allotment, her age is recorded as 24 years. However, 14 years later in the identity card issued by the election commission, as on 01.01.1994, petitioner's age is recorded as 40 years.

4.2 These documents inject doubt in one's mind as to the veracity of the claim made by the petitioner, apart from the fact, it is woefully delayed.

5. A delay of three decades cannot be cured by this court or by any other Department of the Govt. of NCT of Delhi. Records are obviously not available, which is the stand of respondent no.1. I find no merit in the petition. The same is accordingly dismissed.

RAJIV SHAKDHER, J

APRIL 30, 2015

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