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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 8872/2016

UDAY SINGH & ANR

..... Petitioners

Through Mr. Diwan Singh Chauhan, Adv

versus

GOVT. OF NCT OF DELHI

..... Respondent

Through Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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30.09.2016

The petitioner is aggrieved by the fact that his application seeking allotment of an alternate plot had been rejected. This was vide communication dated 06.03.1984. This has been so stated in his prayer clause to the present petition. The prayer being that the communication dated 06.03.1984 whereby the case of Hardwari Lal (father of the petitioner) stood closed for allotment of an alternate plot to be revived and in the interest of justice, the name of the petitioner be incorporated in the draft seniority list for allotment of alternate plots.

Record shows that the present petition has been premised on the acquisition of the land of the father of the petitioner which was in village Rithala which had been acquired by an Award No.19/1980-81. The father of the petitioner during his own lifetime had applied for an alternate plot. This was within time. The averments in the writ

petition further disclose that certain documents were asked for from Hardwari Lal which had been supplied by Hardwari Lal to the respondent. This was on 25.10.1982. On 27.01.1983, Hardwari Lal was surprised to receive a letter from the Department informing him that his case was closed as certain other documents sought for from Hardwari Lal had not been furnished. Further averments in the writ petition disclose that on 06.03.1984, the respondent wrote a letter to Hardwari Lal informing him that his case has been closed due to non-submission of the documents. Hardwari Lal wrote back to the Department on 20.03.1984 informing the Department that he had received no letter from the Department. This Court has been informed that Hardwari Lal had expired in the year 1984. Meanwhile, proceedings for compensation were continuing in various Courts; the Reference Court i.e. the Court of the Additional District Judge had passed an order against which a long battle of litigation had been pursued in the High Court for seeking enhancement of compensation. It was only in August, 2014 that pursuant to a RTI application that the petitioners (legal heirs of Hardwari Lal) learnt about the fate of their case; that it had been closed as way back as in the year 1984. Submission before this Court is that this is a wrong closure of the case as the requisite documents i.e. the relinquishment deed, death certificate, payment certificate and other documents required could not be procured because of the inter-se dispute between the siblings and legal heirs of Hardwari Lal. This is enough reason for the Department to reconsider their case. The Department not having done so has committed an illegality.

On advance notice, learned counsel for the respondent has put in appearance. She submits that it may not be necessary for her to file reply as the averments in the writ petition disclose that there is gap of almost 23 years from the date of closure of the case of the father of the petitioners (dated 06.03.1984 duly acknowledged by the petitioner) and the present writ petition which has been filed in the year 2016. This submission of the respondent has been noted.

Record has been perused. Record clearly shows that the case of the father of the petitioners (Hardwari Lal) had been closed during his own lifetime on 06.03.1984. The Department had sent a letter to Hardwari Lal. The petitioner in para 10 of the petition has clearly admitted receipt of this letter. In fact Hardwari Lal wrote back a letter to the Department informing them that he had not received the earlier letter and he was willing to submit all the requisite documents, if required by the Department.

The long gap thereafter i.e. from March, 1984 till the filing of the present petition (September, 2016) has not been explained. The averments in the writ petition disclose that there appears to be a legal battle inter-se the siblings and legal heirs of Hardwari Lal. This was on the quantum of compensation to be received qua the acquired land. This long drawn gap during which no action was taken by the petitioners in finding out the fate of their application, in view of this Court, does not entitle the petitioners to any sympathetic consideration.

The object of this Policy (of allotment of alternate plots) of the Government was to give succour to those persons whose lands had

been acquired in entirety and they did not have roof or shelter over their heads. This is clearly not one such case. This long gap of 23 years persuades this Court to hold that in this intervening period, it cannot be expected that the petitioners remained homeless. They obviously had a roof/shelter over their heads; this by itself disentitles the petitioners to be considered for allotment of an alternate plot.

The Division Bench of this Court in 86 (2000) DLT 505 titled as Smt. Sundari Bala Vs. Lt. Governor & Ors had noted that the application for allotment of an alternate plot has to be made within the period of a particular time frame and where in that case also the petitioner had approached the respondent party after a gap of 13 years, the Court had noted that the application of the petitioner was time barred and bad on the ground of laches and the case of the petitioner could not be considered; he not having approached the Court within time.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 30, 2016

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