

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA No. 100/2022

Reserved on 26.04.2023.

Pronounced on 28 .04.2023.

Kuldeep Singh

.....appellant

Through :- Mr. C.M. Koul Sr. Advocate with
Mr. A.R.Bhat Advocate.

V/s

UT of Jammu and Kashmir and others

.....Respondent(s)

Through :- Mr.S.S.Nanda Sr. AAG
Mr. Adarsh Sharma Advocate

**Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

JUDGMENT

SANJEEV KUMAR, 'J'

1 This intra-Court appeal is directed against the judgment dated 23.08.2022 passed by the learned Single Judge of this Court [‘the Writ Court’] in OWP No. 573/2006 titled ‘Kuldeep Singh vs. State and others, whereby the writ petition filed by the appellant seeking, *inter alia*, a direction to the respondents to allot and handover the possession of the shop site to him at Transport Nagar, Narwal, Jammu, has been dismissed.

2 Before we advert to the grounds of challenge, few material facts may be narrated.

3 The appellant claims that he had a Khokha at Ware House, Nehru Market, Jammu and was running the business of second hand spare parts under the name of M/S K.S.Motors Parts. It is submitted that the said khokha got burnt in a fire accident that took place at Nehru Market on 08.03.1992 and

later, the same was demolished by the Jammu Development Authority [‘JDA’] along with other structures for establishment of Bus Stand for Kathua route Buses. The appellant further claims that he made several representations to the respondents for allotment of shop site at Transport Nagar, Narwal Jammu in lieu of his burnt khokha on the analogy of similarly situated persons, but the same was not considered by the respondents. Having failed to persuade the respondents to redress his grievance, the appellant made a representation to the Minister for Housing and Urban Development on 21.02.2006. On the recommendations of the said Minister, Vice-Chairman, JDA prepared a detailed report and submitted the same to the Minister for Housing and Urban Development vide communication dated 20.03.2006 along with all supporting documents submitted by the appellant. In the meanwhile, the petitioner also filed a writ petition and pursuant to the interim directions dated 17.02.2007, the matter was placed before the Board of Directors of JDA in its 67th meeting held on 17/26.05.2007. While the matter was under consideration of the Board, the petitioner filed contempt petition No. 27/2007. In response whereof, the JDA pleaded before the Contempt Court that the matter was under consideration of the Board of Directors. It was thereafter taken up for consideration and vide the communication dated 17.02.2009, the case of the appellant for allotment of shop site at Transport Nagar, Narwal Jammu, in lieu of his Khokha, which was allegedly burnt/demolished in the year 1992, was rejected. The appellant amended the writ petition and assailed the rejection order as well.

4 On being put on notice, the respondents filed their objections. The decision of the Board of Directors of JDA taken on 07.02.2009 was justified by the JDA for the reasons and the grounds elaborately mentioned in the order of rejection.

5 The Writ Court, after considering the entire material on record and regard being had to the rival contentions of learned counsel for the parties, came to the conclusion that the appellant had raised serious and complicated disputed questions of fact which were incapable of being adjudicated upon by the Court exercising the writ jurisdiction. The Writ petition was, thus, dismissed vide order dated 23.08.2022. This judgment of the Writ Court is called in question before us.

6 Having heard learned counsel for the parties and having gone through the impugned judgment as also the entire material on record, we are of the considered opinion that the judgment of the Writ Court does not call for any interference for more than one reason. As is seen from the reply affidavit filed by the JDA and is also discernible from a reading of the order of rejection which was impugned before the Writ Court, the allotment of shop sites in Transport Nagar, Narwal Jammu in favour of Khokhawalas of old Transport Yard/Ware House Jammu had been subejct matter of controversy for some time. The old Transport Yard Ware House, Jammu was managed by the Estates Department of the State. A large number of Khokhas were given on rent by the Estates Department to different persons from time to time. The JDA, which had taken over the Old Transport Yard/ Ware House Jammu for construction of New Bus Stand for Kathua route Buses, had taken a decision to rehabilitate the Khokhawalas at newly developed Transport Nagar, Narwal Jammu. A committee of Officers was constituted to verify the claims of the then existing Khokhawalas and pursuant to the verification done by the said Committee, allotments in favour of genuine claimants were made. Since the claimants for allotment of shop sites in lieu of Khokhas did not stop pouring in, two more Committees were constituted to consider the left over cases, if any. The

Committees did their job and, on the basis of recommendations made by the Committees, some more allotments were made. It is, thus, the positive case of the JDA that the Committee, met from time to time, verified the claims and prepared a list of Khokhawalas who had their khokhas existing in the year 1999. All those whose claims were found genuine and were enlisted as genuine claimants, were given the allotments. The name of the petitioner did not exist in any of the lists prepared by the Committee. In the year 1992 also, with a view to examine the claim of left out cases, a notification was published calling upon all the left out persons to come forward and lodge their claims with proof. In response, as many as 396 applications were received and the same were examined. Upon scrutiny and verification, the Committee recommended allotments in favour of 18 persons who were allotted shop sites by the JDA in New Transport Nagar, Narwal Jammu. The name of the petitioner even did not figure in the aforesaid persons. It is, thus, evident that the petitioner had not lodged any claim before any of the committees in this regard. It is on this basis, the JDA rejected the claim of the petitioner and, accordingly, placed the matter before the Board of Directors of JDA for appropriate decision. This is how the impugned decision by the Board of Directors has been made.

7 The plea of the petitioner, that, in the year 1992, the Additional Deputy Commissioner, Jammu had intimated to the JDA that a number of Khokhas including the khokha of the petitioner had been burnt in a accidental fire at Ware House Jammu, as such, these khokhawalas were required to be rehabilitated by providing them alternate shop sites, does not help the petitioner in any manner. The recommendations, if any, made by the Additional Deputy Commissioner, Jammu are not binding on the JDA. The JDA, as noticed above, had constituted Committees to enquire into and verify the claims of the persons

who were seeking the allotment of shop sites in lieu of their khokhas that had been demolished by the JDA for construction of Bus Stand for Kathua route buses at Old Transport Yard/Ware House Jammu.

8 From the material on record, it is quite evident that the appellant did not lodge any claim before the Committees constituted by the JDA for the purpose. He appears to have woken up from the slumber in the year 2004 when he put up his claim for allotment of shop site for the first time before the Minister for Housing and Urban Development. On the directions of the Minister, an enquiry in the matter was initiated. When no progress was made in the matter, the petitioner filed the writ petition and got interim directions issued to the JDA to consider his case for allotment of shop site at Transport Nagar Narwal Jammu. This is how the matter came up for consideration before the Vice-Chairman, JDA Jammu and finally before the Board of Directors of JDA. When the JDA did not find any claim having been lodged by the petitioner during all these years, right from the year 1992 till 2004, it recommended rejection of claim of the petitioner. The Board of Directors concurred with the report submitted by the Vice-Chairman JDA and, accordingly, unanimously rejected the claim of the petitioner. Although, the Writ Court has dismissed the writ petition of the appellant on the ground that it involves disputed questions of fact, we however, find that the writ petition was also hit by huge delay and laches. As is claimed by the appellant, the recommendations in his favour were made by the Additional Deputy Commissioner, Jammu in the year 1992 and if it failed to yield any result, it was incumbent upon the appellant to immediately approach the Court. It seems that he did not pursue the matter, nor did he lodge his claim before the appropriate Committees constituted by the JDA. Several claims were considered and hundreds of allotments made in favour of the

genuine claimants. The petitioner woke up from deep slumber only in the year 2004 i.e after more than eight years and lodged his claim before the Minister for Housing and Urban Development

9 Having regard to the facts and circumstances of the case and the manner in which the appellant has pursued his claim, we have little doubt that the appellant never had the genuine claim to make.

10 For the reasons given hereinabove and those given by the Writ Court, we hold that this appeal is bereft of any merit and substance and the same is, accordingly, dismissed.

(RAJESH SEKHRI)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
28 .04.2023
Sanjeev

