

(2017) 03 DEL CK 0069

In the Delhi High Court

Case No : LPA 138 of 2017 and CM No.7656 of 2017 (delay in filing)

Govt. of NCT of Delhi

APPELLANT

Vs

Sanjay

RESPONDENT

Date of Decision : 22-03-2017

Acts Referred:

Citation : (2017) 4 ADDelhi 171

Hon'ble Judges : G. Rohini, CJ. and Ms. Sangita Dhingra Sehgal, J.

Bench : Division Bench

Advocate : Mr. B. Mahapatra, Advocate, for the Appellants; None, for the Respondents

Final Decision : Dismissed

Judgement

1. The Government of NCT of Delhi/respondent in W.P.(C)No.8636/2016 and W.P(C) No. 8566/2016 is the appellant before us.
2. Though the said petitions were disposed of by separate orders, since both the petitions involve common questions of fact and law they are heard and decided together.
3. At the outset, it may be mentioned that there is a delay of 104 days in filing LPA No.138/2017 and there is a delay of 108 days in filing LPA No.139/2017. The only explanation offered in the applications is that the delay was on account of follow up of long administrative procedures in filing the appeals. Though it is pleaded that the delay was unintentional, apparently, the appellant was not diligent in pursuing the proceedings and the entire approach appears to be extremely casual.
4. Law relating to delay in filing appeals by the Government Departments/Public Authorities has been well settled by the Apex Court. In this context reliance is placed on the case of office of The Chief Post Master General and Ors. v. Living Media India Ltd. and Anr AIR 2012 SC 1506 wherein it was held as under:

"The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few..."

5. The aforesaid view has again been affirmed by the Supreme Court in case of State of Uttar Pradesh v. Amar Nath Yadav (2014) 2 SCC 422. In the facts and circumstances of the present case, we are unable to hold that the explanation offered by the appellant can be construed as sufficient cause for condonation of the delay. As observed by the Supreme Court condonation of delay is an exception and should not be used as an anticipated benefit for government departments. Since there appears to be no bona fide effort on the part of the appellant, we are of the view that the matter does not call for liberal attitude for condonation of the delay.

6. Even on merits of the case, we do not find any justifiable reason to interfere with the orders under appeal.

7. The material available on record shows that the respondents herein/writ petitioners made applications for allotment of an alternate plot in the year 2003 in terms of the scheme. Long thereafter, in the year 2015 their applications were rejected as time barred on the ground that the applications were made beyond the prescribed time of one year. Aggrieved by the same, the respondents herein filed W.Ps.(C) No.8636/2016 and 8566/2016 respectively. The learned Single Judge found that in W.P.(C) No.8566/2016 there was delay of 7 days and in W.P.(C) No.8636/2016 there was delay of 4 days in making the application for alternative plot. The learned Single Judge was, therefore, of the view that the negligible delay of 4 days and 7 days should not come in the way of considering their claims on merits. Accordingly by the orders under appeal, the rejection orders were set aside and the writ petitions were disposed of with a direction to consider the applications of the writ petitioners on merits.

8. The said orders, in our considered opinion, warrant no interference on any ground whatsoever.

9. It may be true 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.

10. Hence, we are in consonance with the view taken by the learned Single Judge.

11. Accordingly, both the appeals are dismissed.