
(2010) 09 DEL CK 0325
In the Delhi High Court
Case No : L.P.A. 471 of 2010

Mohd. Rehmatullah

APPELLANT

Vs

State (NCT) of Delhi and Others

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 09 DEL CK 0325

Hon'ble Judges : Dipak Misra, C.J; Manmohan, J

Bench : Division Bench

Advocate : B.S. Chowdhary, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—The present Letters Patent Appeal has been filed challenging the judgment and order dated 15th March, 2010 passed by the learned Single Judge whereby the appellant's writ petition being W.P.(C) 15005/2006 has been dismissed.

2. Briefly stated the relevant facts of the present case are that the appellant-petitioner applied for an alternative industrial plot under the Relocation Scheme floated by the respondents No. 1 and 3 for rehabilitation of polluting industries which had been closed down by virtue of orders of the Hon'ble Supreme Court of India.

3. In accordance with the Relocation Scheme, all applicants were to deposit the earnest money and remaining fifty per cent of the plot price within three months from the date of registration. The last date of deposit of fifty per cent of the demand was extended upto 31st March, 2001 by the Supreme Court.

4. It is the case of the appellant-petitioner that he fulfilled the requisite criteria for being allotted an alternative industrial plot. It is also the appellant-petitioner's case that he had paid part of earnest money himself and the remaining money was borrowed from Delhi State Cooperative Bank Ltd. (in

short, "DSCBL") which fact was confirmed by DSCBL vide letter dated 17th July, 2001.

5. Accordingly to the appellant-petitioner, as he did not receive any response from the respondents, he sent a complaint dated 18th January, 2005 to the Manager of DSCBL. It is also the appellant-petitioner's case that on 24th February, 2005, he had sent a reminder to the DSCBL for consideration of its application dated 31st December, 1996. But as no response was received either to the original letter or to the reminder, the appellant-petitioner filed the aforesaid writ petition before this Court.

6. In the counter affidavit filed by the respondent No. 1, it was pointed out that the appellant-petitioner had failed to furnish the documents to establish manufacturing activity prior to 19th April, 1996. It was further stated that as the appellant-petitioner was not found eligible for the allotment for an alternative industrial plot, he was communicated vide letter dated 21st June, 2000 that he was not eligible for allotment of an alternative industrial plot under the Relocation Scheme. It is also the case of respondent No. 1 that a public notice intimating the criteria for allotment was published in the newspaper "Hindustan Times" dated 01st February, 2001. It was further pointed out that interest on the amount deposited on behalf of the appellant-petitioner had been credited to his banker, DSCBL, on 14th February, 2003. Accordingly, it was submitted that the writ petition was barred by delay and laches.

7. The respondent No. 3/DSI IDC in its counter affidavit pointed out that the Commissioner of Industries had rejected the appellant-petitioner's application on 09th October, 1998 and accordingly, the earnest money deposited by the appellant-petitioner had been refunded by Cheque No. 491040 dated 22nd February, 2002 and the appellant-petitioner was intimated of the same vide letter dated 29th April, 2002.

8. The learned Single Judge by the impugned order dismissed the writ petition on the ground that the appellant-petitioner did not follow up the matter after 17th July, 2001 till 18th January, 2005 despite the fact that the entire amount along with interest had been refunded by the respondent No. 3 to the appellant-petitioner's bank by 14th February, 2003.

9. Mr. B.S. Chowdhary, learned Counsel for the appellant-petitioner submitted that the learned Single Judge had failed to appreciate that the appellant-petitioner fulfilled the eligibility criteria for allotment of an alternative industrial plot under the Relocation Scheme. In this connection, Mr. Chowdhary placed reliance upon the certificate dated 12th October, 1995 issued by the Delhi Municipal Corporation.

10. During the course of the arguments before this Court, Mr. Chowdhary urged that the learned Single Judge had erroneously dismissed the writ petition on the ground that appellant-petitioner had not followed up the matter after 17th July, 2001 till 18th January, 2005. In this connection, he pointed out that after DSCBL

had remitted the amount, the appellant-petitioner was not to undertake any further steps. Mr. Chowdhary further stated that as the appellant-petitioner was an illiterate person, he could neither understand the contents of letter dated 21st June, 2000 nor the notice published in the newspaper "Hindustan Times" dated 01st February, 2001.

11. Having heard the parties, we are of the opinion that as the appellant-petitioner had been communicated by the respondent No. 1's letter dated 21st June, 2000 that his application for allotment of an alternative industrial plot under the Relocation Scheme had been rejected, the appellant-petitioner was under an obligation, if so desirous, to file appropriate legal proceedings expeditiously.

12. While it is true that Article 226 is an extraordinary remedy available to mitigate the sufferings of the people in general but it is not out of place to mention that this extraordinary jurisdiction has been conferred on to the law courts under Article 226 of the Constitution on a very sound equitable principle. Hence, the equitable doctrine, namely, "delay defeats equity" has its fullest application in the matter of grant of relief under Article 226 of the Constitution. The discretionary relief can be had, provided one has not by his act or conduct given a go-by to his rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of grant of any relief to appellant-petitioner does not and cannot arise.

13. We are further of the view that the ground of illiteracy is no defence especially when the appellant-petitioner had applied for allotment of an alternative industrial plot in English language. In any event, the admitted position is that between 17th July, 2001 and 18th January, 2005, the appellant-petitioner had not taken any steps to challenge the cancellation order dated 21st June, 2000. This fact also becomes more glaring in view of the fact that respondents had refunded the amount deposited by the appellant-petitioner to his banker way-back on 22nd February, 2002.

14. Consequently, as the writ petition filed by the appellant-petitioner was barred by delay and laches, the impugned order calls for no interference. Accordingly, the appeal is dismissed but without any order as to costs.