

(2018) 04 DEL CK 0119
In the Delhi High Court
Case No : W.P.(C) 6119 of 2013

MOORTI DEVI

APPELLANT

Vs

GOVT OF NCT OF DELHI

RESPONDENT

Date of Decision : 19-04-2018

Acts Referred:

LAND ACQUISITION ACT, 1894 — Section 4

Citation : (2018) 04 DEL CK 0119

Hon'ble Judges : REKHA PALLI

Bench : Single Bench

Advocate : I.S. Dahiya, Deepika

Final Decision : Disposed Of

Judgement

REKHA PALLI, J (ORAL)

1.Vide the present petition, the petitioner has sought quashing of letter dated 22.04.2013 vide which she was informed that the Recommendation

Committee in its meeting held on 28.03.2013, had rejected her case for grant of an alternate plot on the ground that the application submitted by her

was time barred and had not been submitted within the stipulated period of three months from the date of receipt of compensation.

2.Mr. Dahiya, learned counsel for the petitioner submits that the petitioner's mother Smt. Sudha was the recorded owner of land measuring 12

bigha 13 biswas, comprising in Khasra No. 81/1(4-10), 93/2(1-09), 99(4-16), 103/2(0-12) & 109/2(106), situated in the revenue estate of village

Sahupur, Delhi. He submits that the petitioner's mother gifted the aforesaid land in favour of her two daughters including the petitioner by way of

a registered gift deed dated 11.03.1983. He further submits that the said land was subsequently acquired by way of notification under Section 4 of the

Land Acquisition Act on 27.01.1984 which was followed by an award dated 01.09.1986. The petitioner received thereafter the amount of compensation on 16.01.1987.

3.Mr.Dahiya submits that the petitioner, being eligible to apply for an alternate plot in accordance with the rehabilitation policy dated 02.05.1961 of the respondents, submitted an application seeking alternate plot on 03.06.1988 which was received in the office of respondent. He submits that the application remained pending for over twenty years and vide letter dated 03.09.2008, the petitioner was asked by the respondent to submit further documents, which were duly submitted by her along with her reply dated 15.10.2008. He further submits that even after receipt of the said documents, the respondent raised some further queries and the petitioner had duly answered the same vide letter dated 30.10.2012.

4.Mr.Dahiya submits that however instead of processing her application based on her admitted eligibility, the respondents vide the impugned letter dated 22.04.2013 informed the petitioner, that the Recommendation Committee had rejected her case on the ground of being time barred.

5.In these circumstances, the present writ petition has been filed. Upon notice, respondent had filed its counter affidavit in which the respondent while admitting that the petitioner's land had been acquired and that she had received compensation for the same on 16.01.1987, has contended that the petitioner's application was rightly rejected as being time barred, as the same was not submitted within the requisite time period of three months from the date of receipt of compensation as required under the public notice dated 14.09.1987.

6.Ms.Deepika, learned counsel for respondent submits that a perusal of the said public notice clearly shows that the application for alternate plot had to be made within three months of receiving the compensation which period could be extended by another three months. She submits that in view of the admitted fact that the petitioner had submitted her application only on 3rd June, 1988 i.e. after about one year and five months of receiving the compensation, the respondents were fully justified in rejecting the claim by the petitioner.

7.On the other hand, Mr. Dahiya, learned counsel for the petitioner has relied upon public notice dated 27.03.1989 whereby the plot owners whose

land had been acquired between 16.11.1963 and 31.12.1988, were given another opportunity by way of an amnesty scheme to submit application for allotment of an alternate plot on or before the 30.04.1989. The aforesaid public notice also clarified that all pending applications of persons whose land had been acquired between 16.11.1963 and 31.12.1988 would be considered and therefore there was no requirement for them to file fresh application and thus contends that the respondents were not justified in rejecting the petitioner's pending application received by them on 06.06.1988.

The relevant portion of public notice dated 27.03.1989, reads as under:-

“Only those persons may apply who have not applied earlier for the said purpose. For the removal of doubts it is clarified that this scheme is applicable only to those persons who were recorded owners of the acquired land at the time of notification under section 4 of the Land Acquisition Act.”

8.Mr. Dahiya, learned counsel for the petitioner relies on a decision of this Court dated 05.04.2018 passed in WP(C) 127/2013 wherein this Court after examining the aforesaid policy dated 02.05.1961 as also the public notice dated 27.03.1989, had come to a conclusion that in such circumstances when the respondents had themselves come up with an amnesty scheme on 27.03.1989 permitting land owners whose land had been acquired between 16.11.1963 and 31.12.1988 to submit fresh application before 30.04.1989, the decision to reject pending applications on the ground of delay was unjustified, especially in view of the admitted position that the said public notice clearly stated that persons whose applications were pending, need not apply again. For parity of reasons, I find that the rejection of the petitioner's application dated 3rd June, 1988 which was admittedly pending with the respondent at the time of issuance of public notice dated 27th March, 1989, was wholly arbitrary and unjustified.

9.The writ petition is allowed. The impugned order dated 22.04.2013 as also the decision of the recommendation committee dated 28.03.2013 rejecting the petitioner's case for alternate plot, are quashed. The respondents are directed to reconsider the petitioner's application dated 03.06.1988 for grant of an alternate plot on its own merit within 12 weeks.

10.The Petition is accordingly disposed of in aforesaid terms.