
(2009) 03 DEL CK 0144
In the Delhi High Court
Case No : Writ Petition (C) 7804 of 2009

Sadaram Sharma

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-03-2009

Acts Referred:

Citation : (2009) 03 DEL CK 0144

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : M.K. Gautam, for the Appellant; Sanjay Poddar, Manoj Rath and Vivek Kumar Tandon, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—Issue notice. Mr. Sanjay Poddar and Mr. Manoj Rath, Advocates, accept notice on behalf of Respondent Nos. 1 and 2 respectively. With consent of counsels, the matter was heard finally.

2. The writ petitioner is aggrieved by refusal of a request to allot alternative plot in lieu of lands of his father, acquired in 1961, in the process of ?Large Scale Acquisition, Development and Disposal of Lands in Delhi-1961?. The petitioner contends that his father Shri Brahma applied on 03.09.1986 in terms of the Scheme formulated by the respondents in 1961 for allotment of an alternative plot. The late Shri Brahma was issued a certificate on 24.10.1986, stating that the compensation in terms of the award had been paid.

3. Apparently, the applicant land owner died on 05.04.1989, when his request for allotment of alternative plot was being processed and pending consideration. The petitioner claims to have written various letters to the respondents and visited their office between 1989 and 1994. He submits that when unsuccessful on securing any response, he approached the fourth respondent on 12.07.1995 and requested to meet the concerned officials. He was then told that in the absence of relevant documents, the application could not be processed. It is submitted

that after regularly visiting the offices of respondents, the petitioner were able to secure the documents, which was furnished with the Indemnity Bond in October-November, 1997. The petitioner refers to notings made in the official files of Respondents during 1997-98, stating that though the case had been closed, the documents had been furnished by the legal representatives and the matter should have been looked into again. It is submitted that in these circumstances, the petitioner received the letter dated 17.04.2008 stating that its representations had been rejected since the matter had been treated as closed in terms of the order dated 08.01.1992.

4. Learned Counsel also relied on information elicited in the Right to Information Act, 2005 and states that the respondents, in answer, have now informed him that the letters dated 15.03.1991, 26.08.1991, 07.10.1991, 08.01.1992 and 30.06.1995, (stated earlier in the letters written to him, to have been sent under registered cover), as having been actually sent by ordinary post. It is contended that the letter dated 08.01.1992 rejecting the application was in fact sent in the name of Shri Brahma, who had died and the petitioner was, therefore, never aware that the request had been rejected.

5. It is contended that the petitioner is entitled to favorable consideration of the request for allotment in the light of the policies formulated by the respondents, which entitle each dispossessed land owner to allotment of alternative plot. The counsel contended that the so called rejections should not be taken into consideration since the record of the respondents itself shows that they had informed inaccurately that previous information had been furnished under Registered post, which was never the case.

6. Learned Counsel for the respondents contended that the late land owner Shri Brahma died in 1989 and the petitioners apparently were aware of the rejection letter of 08.01.1992, but nevertheless started a fresh correspondence on 09.07.1992. He pointedly referred to copy of the letter dated 08.01.1992 which is part of the record. It was contended that in the facts of this case, the petitioner cannot claim any discretionary decision since the rejection was communicated not only in 1992, but later on, on 28.04.2004, even assuming the Department was at some stage inclined to examine the matter.

7. The preceding discussion would reveal that concededly the petitioner's father, Shri Brahma was a land owner dispossessed by a notification under the Land Acquisition Act; he received compensation in 1986. He had then applied for allotment for alternative plot. When the request was pending, he died in 1989. The petitioner does not contend having informed the authorities about this development contemporaneously. He also curiously does not state that the letter dated 08.01.1992 was not received. In fact, it was sent to the same address. The copy of the application under the RTI Act, 2005 also had been filed; the response elicited all pertain to correspondence by the Department through specific letters of 1991 and 1995. Therefore, it is apparent that the petitioner was aware of and perhaps was also in possession of letter of rejection dated 08.01.1992.

8. The fact, however, remains that between 1995, 1998 and 1999, the respondent authorities apparently did not find the rejection letter an impediment into reconsideration of the matter. This is apparent from the copies of notings which state that the legal heirs ? read the present petitioner - had approached on behalf of the land owner and were able to furnish the relevant documents. However, no formal determination on whether to reopen the matter took place. The final order in this regard was made on 28.04.2004, when the petitioner was told that his matter would not be reopened. The letter which is a part of the record reads as follows:

GOVT. OF NCT OF DELHI

LAND & BUILDING DEPARTMENT

VIKAS BHAWAN: NEW DELHI

(ALTERNATIVE BRANCH)

No. F.33(24)/39/86/L & B/Alt/1995

Dated: 28.04.2004

To,

Sh. Sada Ram Sharam

S/o Sh. Brahma

H. No. 1118, Near Bank of Baroda,

Badli, Delhi.

Sub: Regarding allotment of alternative plot in lieu of land acquired under the Scheme of Large Scale Acquisition for Development and Disposal of Land in Delhi

Sir,

With reference to your representation dated 31.3.2004 on the above cited subject, I have to inform you that your case has been closed vide this office letter No. 33(24)/39/86/L & B/Alt./807 dated 8.1.92 (copy enclosed) for the reason of non furnishing of documents in time.

Intimation of closing of file was already endorsed to you vide the letter referred above.

This is for your kind information please.

Yours faithfully,

Sd/-

Dy. Director (Alt)

9. Although at first blush, the petitioner?s contention may appear to be sound

and attractive, the Court cannot be oblivious of the fact that he is now approaching and seeking relief in 2009 after he became aware sometime in 1994-95 that the request was rejected in the year 1994. It was open to the petitioner atleast in 1999-2000 to approach when he was aware that the matter was examined but unfavourable orders were made. That apart, the facts here disclose that the original land owner passed away in 1989; no steps were taken to inform the authorities at least within a reasonable time. Further, the land owner was survived by several legal representatives. Only one approached the respondents, who justifiably asked him to produce Relinquishment Deeds executed by the other heirs. He was able to secure these much later, in 1998.

10. The objective of allotment of alternative plot is to essentially rehabilitate the individual who is otherwise deemed to be compensated in accordance with provisions of the Land Acquisition Act. The scheme is a progressive one and must be utilized by those who do not have the minimum means of rehabilitation. Had the petitioner really needed the plot, he would have approached this Court within reasonable time.

11. It has been held by a Full Bench of the Court in *Ramanand v. UOI* AIR 1993 Delhi 29, that an individual whose land is acquired even for planned development of Delhi has no vested right to apply and seek alternative allotment of plot. The Court inter alia observed as follows:

28. As a result of the above discussion, we find that an individual whose land has been acquired for planned development of Delhi, has no absolute right to allotment, but he is eligible to be considered for allotment, of an alternative plot for residential purposes and that the DDA may allot Nazul land to such an individual, in conformity with the plans and subject to other provisions of the Nazul Rules.

12. Another important aspect is as discussed above, the petitioner has approached the Court though aware that the rejection took place in 1992, only in 2009. Even if some concession is given to the fact that his request was sought to be reopened in 1998-99, the petition is considerably belated. He was clearly made aware that relief would not be given to him in the year 2004. Despite these circumstances, he has chosen to not approach the Court and now stated that final rejection took place on 17.04.2008. A plain reading of the letter makes it clear that the authorities communicated that the request for reopening of the case was not being acceded to. In *S.S. Rathore v. State of M.P.* 1989 (4) SCC 582, it was held that mere presentation of repeated reminders would not extend the period of limitation or the time otherwise, allowed to a litigant if the claim is otherwise belated.

13. For the above reasons, the writ petition cannot be entertained; it is accordingly dismissed.

C.M. No. 4090/2009 (Exemption)

Dismissed as infructuous.