

**(2005) 11 DEL CK 0088**  
**In the Delhi High Court**  
**Case No : WP (C) No. 1496 of 1992**

Smt. Ram Kali

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

**Date of Decision :** 07-11-2005

**Acts Referred:**

Delhi Development Act, 1957 — Section 22, 56(2)  
Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 — Rule 2  
Land Acquisition Act, 1894 — Section 4

**Citation :** (2005) 11 DEL CK 0088

**Hon'ble Judges :** Pradeep Nandrajog, J

**Bench :** Single Bench

**Advocate :** Pinki Anand, for the Appellant; Rita Kaul, for R-3 and C. Mohan Rao, for R-4, for the Respondent

**Final Decision :** Dismissed

## Judgement

Pradeep Nandrajog, J.—This is the second round of litigation between the parties. Late Sheo Singh, husband of the petitioner was the co-owner of agricultural land in Delhi within the revenue Estate of Village Madangir. He had one fifth share in the land. The land was acquired. Acquisition was prior to 15.11.1963.

2. In the year 1961, Union of India had framed a scheme under which lands were acquired for planned development of Delhi. It was called "The Scheme of Large Scale Acquisition, Development and Disposal of Lands in Delhi". Persons whose land was acquired were entitled to an alternative residential plot in Delhi at predetermined rates.

3. In the year 1963 a press note was published in the newspapers inviting applications up to 15.12.1963 from those whose lands were acquired for planned development of Delhi. Late Sheo Singh submitted an application to the Land and Building Department, Delhi Administration, the nodal agency to whom the application had to be submitted for verification. On 17.11.1979, Land and Building Department wrote to Sheo Singh as under:-

"To,

Sh. Sheo Singh

s/o Sh. Ram Lal

Village Madangir,

New Delhi.

Sub: Allotment of alternative plot under the scheme of "Large Scale Acquisition, Development and Disposal of land in Delhi-1961"

Sir,

I am to refer to your letter dated Nil on the above cited subject and to state that in 1963 this department had issued a Press Note inviting applications for allotment of alternative plot from the persons whose land had been acquired by that time and it was made clear in that Press Note that no application received thereafter should be entertained. Your land was acquired in 1963 and as such your application cannot be entertained at this late stage unless you can show cogent reasons for this inordinate delay.

Yours faithfully,

sd/-

(B.R.K. Bhatnagar)

Officer on Spl. Duty (Lit)

Land & Building Department

4. In response, vide letter dated 5.12.1979 Late Sheo Singh responded as under

"To,

The O.S.D./Lit.

Land & Building Department.

Vikas Bhawan, New Delhi.

Subject:- Rejection of the application.

Respected Sir,

With reference to your letter No. F 32(49/2-79- L & B Alt.34133 dated 17.11.1979, I humbly submit that the following are the reasons for not submitting the application in time.

(i) In your letter, there is a mention about the release of the press note regarding the filling up of the application for plot. But I am sorry to say that the issue of notice through press is of no consequence for an illiterate person like me because since birth I am illiterate rustic farmer.

(ii) The Second reason for not filing the application at the proper time is that unfortunately my one eye-sight had gone bad since my childhood. At the time when my land was acquired by the Administrator, my age was old and after my one eye sight having gone bad, my second eye sight had also gone weak on account of old age, for which reason I was not in a position to move about on account of short vision.

I humbly request you with folded hands that on account of the reasons mentioned above I could not take any action within time. Please accept my application.

Thanking you,

Yours faithfully,

Sheo Singh

5. On 3.3.1980, the Land and Building Department wrote to DDA that a residential plot ad measuring 250 sq.yards be allotted to Sheo Singh. It was informed that Sheo Singh was found eligible and entitled to a plot.

6. Sheo Singh having died, petitioner who is his wife expected the allotment to be made in her favor. All of a sudden, on 28.5.1982 she received a letter informing her that the recommendation made vide letter dated 3.3.1980 stood withdrawn for the reason it was decided that all those who had applied after the prescribed cut of date were not entitled to a plot.

7. Aggrieved by the letter dated 28.5.1982, petitioner filed a writ petition in this Court which was registered as CW No. 770/83. Vide judgment and order dated 19.10.1984 the writ petition was allowed. It was noted that husband of the petitioner, vide the letter dated 5.12.1979 had explained the delay in filing the application and letter dated 3.3.1980 making recommendation was after considering the said reasons. It was held that a right had accrued in favor of Sheo Singh and this could not be taken away without a hearing being granted. The impugned letter was quashed and directions were issued to the Land and Building Department to grant an opportunity of hearing and pass a fresh speaking order.

8. In compliance with the mandamus aforesaid, on 7.2.1985 a show cause notice was issued to the petitioner stating that Sheo Singh had not applied within the prescribed cut off period. Petitioner was called upon to show cause as to why the recommendation made be not withdrawn and the case closed. Petitioner filed a detailed reply. She pointed out that her husband was called upon to explain the delay in filing the application. He did so. The department considered the reply and found that the delay was to be condoned. Accordingly, petitioner pointed out that the recommendation could not be withdrawn.

9. Vide letter dated 21.5.1985, petitioner was informed that recommendation made in her favor stood withdrawn as her husband had applied beyond the

prescribed cut off period.

10. Present petition was filed 26th March, 1992 challenging the decision conveyed to the petitioner vide letter dated 21.5.1985. Mandamus is prayed to be issued against the respondents directing them to allot a plot to the petitioner.

11. Ms. Pinky Anand, learned counsel for the petitioner urged that in view of the decisions of this court in CWP No. 3028/85, Raghu Nath Singh v. UOI, decided on 2.4.1991 and CW No. 1750/1986, Tilak Ram v. UOI decided on 15.7.2002, petitioner was entitled to the relief prayed for.

12. A preliminary objection has been raised by the respondents and needs to be dealt with, for the reason if the same succeeds the writ petition merits dismissal on account of delay and laches. It is urged that the writ petition should be dismissed on ground of delay and laches for the reason challenge to the decision dated 21.5.1985 was after a period of 6 years and 10 months.

13. As noted above, large scale acquisition policy was framed by the Govt. of India in the year 1961. It was notified vide office order dated F.37(16)/60-Delhi (1). Inter alia, the policy stipulated as under:-

(8) As a general policy, disposal of developed land should be made by auction and the premium should be determined by the highest bid, except in the following cases, where land may be allotted at pre-determined rates, namely, the cost of acquisition and development plus the additional charge mentioned in subparagraph (7) above.

(i) to individual whose land had been acquired as a result of the Chief Commissioner's notification dated the 7th March, 1957, the 3rd September, 1957, the 18th November, 1959, the 10th November, 1960 other such subsequent notifications provided that this concession will not be available in the case of individuals affected by the notifications dated 7th March, 1957, and the 3rd September, 1957. If acquisition proceedings have been completed and payment made or deposited in Court by the 1st January, 1961, in these cases.

(a) If a residential plot is to be allotted, the size of such plot, subject to the ceilings prescribed may be determined by the Chief Commissioner, taking into consideration the area and the value of land acquired from the individual and the location and value of the plot to be allotted.

14. Large scale policy aforesaid was undoubtedly a beneficial policy. When lands are acquired, compensation is paid at the market value as on date of notification issued u/s 4 of the Land Acquisition Act, 1894. But for the policy, none would have a right to claim an alternative plot.

15. Delhi Development Act, 1957 was promulgated in the year 1957. Delhi Development Authority was constituted. As amended, power to acquire land required for planned development of Delhi is vested in the Central Government. Land acquired by the Central Government is placed at the disposal of DDA u/s 22

of the Act. This land is called Nazul land.

16. Section 56(2)(j) of the Act empowers the Central Government to make rules, inter alia, specifying the manner in which Nazul lands can be dealt with by the authority.

17. DDA (Disposal of Developed Nazul Land) Rules, 1981 were promulgated in the year 1981. These rules were framed by the Central Government. These rules would, Therefore, be the mandate under which Central Government places land at the disposal of DDA u/s 22.

18. Rule 2(i) of the Nazul Rules define Nazul Land to mean "the land placed at the disposal of the authority and developed by or under the control and supervision of the authority u/s 22 of the Act."

19. Prior to the promulgation of the Nazul land Rules, directions issued by the Central Government to the Delhi Development Authority held the field.

20. Since under the Nazul Land Rules and prior thereto, under the large scale acquisition policy, persons whose land was acquired were entitled to an alternative plot if the land was placed at disposal of DDA for planned development of Delhi, D.D.A would consider how much land would be required for allotment to the persons affected and how much would be required for the specified purpose, under a composite proposal adequate land would be acquired. After development some would be allotted to the land owner and remaining utilized for planned development of Delhi. Inherently, it becomes necessary for the person affected to apply within a reasonable time and if application is rejected, to approach the court within a reasonable time. D.D.A. Is not expected to hold on to land beyond a reasonable period.

21. It is true, and as has been held by their Lordships of the Supreme Court in the decision reported as M/s. Dehri Rohtas Light Railway Company Limited Vs. District Board, Bhojpur and District Board, Shahabad and others, the rule which says that the court may not inquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion, each case must depend upon its own facts; it will all depend on what the breach of the fundamental right and the remedy claimed are and how the delay arose, but where the delay is enormous, additional consideration from the point of view of limitation, if civil suit was to be filed, has to be taken note of as was observed by the Constitution Bench of the Hon"ble Supreme Court in the decision reported as State of Madhya Pradesh Vs. Bhailal Bhai and Others, It was observed as under:-

"Learned counsel is right in his submission that the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. It appears to us however that the maximum period fixed by the legislature as the time within which the relief by a suit in a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay in seeking remedy under Article 226

can be measured. This court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a civil action for the remedy, but where the delay is more than this period, it will almost always be proper for the court to hold that it is unreasonable."

22. As noted above, petitioner has approached this court after a delay of nearly seven years. I do not find any plausible Explanation stated in the writ petition to justify the belated action. All what I find is that in paras 16 and 17 it is stated that on 3.10.1986 and 26.12.1986 two letters were sent to the department protesting against the rejection of the claim and that in para 19 it is stated that on 27.10.1991 petitioner sent another protest letter.

23. Petitioner did not receive any response to the letters addressed by her in October and December, 1986. I see no reason why petitioner should not have approached the court within a reasonable period after December, 1986.

24. I accordingly hold that the writ petition suffers from gross delay and laches and on this short count alone is liable to be dismissed.

25. The rule is discharged. Petition dismissed. No costs.