
(2022) 10 DEL CK 0131

In the Delhi High Court

Case No : Civil Writ Petition No. 6121 Of 2012

Sube Singh

APPELLANT

Vs

Govt Of Nct Of Delhi

RESPONDENT

Date of Decision : 14-10-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2022) 10 DEL CK 0131

Hon'ble Judges : Chandra Dhari Singh, J

Bench : Single Bench

Advocate : . Priyanka Yadav, Jyoti Tyagi

Final Decision : Dismissed

Judgement

Chandra Dhari Singh, J

1. The instant writ petition under Article 226 read with Articles 14 and 16 of the Constitution of India has been filed on behalf of the petitioner seeking following reliefs:-

"a) Hold the action /inaction of the respondent in not considering the application of the petitioner dated 27-01-1992 as arbitrary, discriminatory, improper, irrational unjustified and hence illegal.

b) Direct the respondent to consider the representation / application dated 27-01-1992 of the petitioner for re-opening of his case for allotment of alternative plot.

c) Direct the respondent to recommend the name of the petitioner to DDA for allotment of alternative plot in lieu of Petitioners land acquired by the respondent, the petitioner being the recorded owner of his 1/6th share in the said land measuring 39 Bighas 3 Biswas situated in the revenue estate of village Bagrola, Delhi...."

2. The background of the case reveals that the petitioner was recorded owner of

1/6th share of agricultural land admeasuring 39 bighas 3 biswas situated in Revenue Estate of Village Bagrola, Delhi which was acquired by the respondent vide Award No. 49/86-87 dated 19th September 1986. The petitioner received the compensation in lieu of acquisition to the tune of Rs. 1,11,733/- on 11th November 1986.

3. Upon acquisition of his land, the petitioner applied for allotment of alternative plot in lieu of acquisition of his land under the Scheme dated 2nd May 1961 for "Large Scale Acquisition Development & Disposal of Land in Delhi" (hereinafter "Scheme of 1961") vide application dated 22nd January 1987.

4. On the said application, the respondent passed the order bearing no. F.31/(06)/59/87/L&B/Alt.944 dated 8th January 1992 rejecting the application of the petitioner on the ground of non-submission of requisite documents/information by the petitioner for his application to be processed. Upon attaining the knowledge of rejection of his application of allotment of alternative plot, the petitioner filed for re-opening of his case vide application on 27th January 1992, however, vide order dated 8th January 1992, the same also came to be rejected.

5. The petitioner is before this Court assailing the said rejection orders and is also seeking re-opening of his case and directions to the respondent to recommend his name for allotment of alternative plot by reopening and reconsidering his case.

6. Learned counsel appearing on behalf of the petitioner submitted that the petitioner moved his application for allotment of alternative plot on 22nd January 1987, with all necessary documents, including the Khatoni and land records, indemnity bond and necessary affidavit. It is submitted that the petitioner personally visited the office of the respondent on 27th January 1992 and was told that his case file had been closed vide letter dated 8th January 1992, and hence, he filed for reopening of his case. It is submitted that the request of the petitioner for re-opening of his case was also not considered by the respondent and hence, the action on behalf of the respondent was arbitrary, unjustified, unreasonable and discriminatory. It is further submitted that the petitioner also filed applications dated 25th May 2007, 13th September 2007 and 24th July 2008, however, no reply was received and no action was taken by the respondent on the said applications.

7. It is submitted on behalf of the petitioner that on the application of the petitioner no order was being passed on the application of the petitioner, therefore, subsequently he made an application under the Right to Information Act, 2005 (hereinafter "RTI") dated 26th May 2008 to which he received the communication dated 25th June 2008 intimating him that there were no recommendations received in his favour. The petitioner pursued the matter with the respondent and also made a subsequent RTI application, and received reply/letter dated 11th May 2012, whereby, he was intimated about the closure of his case.

8. It is submitted that in order to deal with aspect of closed cases the then Chief Secretary of Delhi Administration took a decision in the meeting held on 29th August 1991 to the effect that the cases which were closed for want of documents should be reopened when the requirement is met by applicant. In pursuance of above said order, respondent Department had been reopening cases where applicant submitted requisite documents. It is submitted that in the year 1997 a Committee was constituted for recommendation of alternative plots. The said committee had ordered reopening of 28 identical cases as petitioner's, in the year 1997 and committee continued with this practice to reopen closed cases, however, the petitioner's case was not decided in light of the said decision.

9. The petitioner is, therefore, seeking the above-mentioned prayers by way of filing the instant petition.

10. Per Contra, learned counsel appearing on behalf of the respondent vehemently opposed the contentions raised on behalf of the petitioner and at the very outset has raised an objection to the petition on the ground of limitation. It is also strongly urged that the instant petition is liable to be dismissed on the ground of limitation since the case of the petitioner was closed in January 1992 whereas the petitioner has approached this Court by way of filing the instant petition only in the year 2012 seeking relief of consideration of his application pertaining to the year 1992 for re-opening of his case. Reliance has been placed upon the judgment of Govt. of NCT of Delhi vs. Jagdish Singh, 2012 SCC OnLine Del 1445.

11. It is further submitted that the case of the petitioner for allotment of alternative plot was rejected since the petitioner failed to submit requisite documents for the proper adjudication of his case despite issuance of letters dated 15th March 1991 and 19th December 1991. The eligibility of the petitioner could not be ascertained in the absence of requisite documents.

12. Therefore, it is submitted that the instant petition is liable to be dismissed for being devoid of merit.

13. Heard learned counsel on behalf of the parties and perused the record.

14. The petitioner had applied for allotment of an alternative plot vide application dated 22nd January 1987 which came to rejected on the ground of non-submission of requisite documents. The said rejection order dated 8th January 1992 reads as follows:-

"Kindly refer to this office letter of even no. dated 15.3.91 and subsequent reminder dt 10.12.91 sent by under Regd Post /A.D. in which you were asked to supply the requisite documents/information by 30.12.91 As you fail to comply of this letter cited above I am directed to inform you that in the absence of the documents/information it is not possible for this administration to process your case any further, hence Closed."

15. The process for allotment of alternative plot is outlined under the Scheme

dated 2nd May 1961 which not only provides measures for controlling value in urban areas but also largely regulates the conditions stipulated for acquisition, development and disposal of land. It provides for eligibility criteria as well as conditions and procedures an applicant needs to follow while applying for allotment of alternative plot.

16. A perusal of the rejection order dated 8th January 1992 shows that the respondent, vide its communication dated 15th March 1991, which is appended to the pleadings as Annexure R-1, addressed to the petitioner, asked him to submit the relinquishment deed duly registered with the SP, Delhi, for proper consideration of his case for allotment of alternative plot. Further, communication dated 19th December 1991 was addressed to the petitioner whereby L.R. 4 & 5 form/ Jamabandi/ Farad Khatoni/ Mutation Order duly attested by the Tehsildar, Delhi were sought from him.

17. The respondents very specifically mentioned the documents required for consideration of application of the petitioner for allotment of alternative plot which is evident on the perusal of the aforesaid communications which are available on record. Despite these communications, not only did the petitioner failed to furnish the said documents, he also failed to specify any reasons for not furnishing the documents requested for in his reply to the communications/ representations subsequently made by the respondent.

18. Furthermore, the petitioner has approached this Court seeking setting aside of order dated 27th January 1992 rejecting his application seeking reopening of his case for allotment of alternative plot. The petitioner has sought the said relief by way of filing of the instant petition in the year 2012, i.e., 20 years after the said order was passed. Upon query of this Court, the learned counsel for the petitioner failed to furnish any satisfactory reply for the considerable inordinate delay in filing of the instant petition.

19. In the present factual narration, it is not disputed that vide letter No. 31(6)/59/87/L&B/Alt.944 dated 8th January 1992, the respondent had closed the case of the petitioner. This letter was duly received by the petitioner. It was expected out of a bona fide litigant to then and there approach this court seeking the relief which has now been claimed belatedly. Suddenly, after sleeping over their rights for around 20 years, the petitioners have approached this Court. The respondent has categorically stated that cases once rejected / closed cannot be re-opened / reconsidered unless there is an order of a competent court of law. Moreover, the petitioner has relied upon a policy decision dated 29th August 1991 to argue that the Chief Secretary, Delhi Administration decided to re-open cases closed due to non-submission of documents. Upon perusal of the record, it is found that the petitioner had not made a representation to the concerned authority pursuant to the alleged policy decision as aforesaid. Therefore, by bypassing the proper channel, the petitioner cannot seek grant of benefits of the said policy of 1991 before this Court in the instant petition.

20. In the opinion of this Court, the present petition is misconceived and nothing but a gross abuse of the process of law and is also clearly barred by being infected with delays and laches. Law favours only those who are alive as to their rights and not those who sleep over their rights. The case of the petitioner is liable to be rejected at the threshold.

21. Keeping in view, the facts, circumstances, contentions raised in the pleadings and submissions made on behalf of the parties, this Court is not inclined to invoke to allow the instant petition in the absence of any reasonable and just cause for the delay in challenging the alleged impugned actions on behalf of the respondent. In the absence of the requisite documents which were essential for consideration of the case of the petitioner the respondents could not have proceeded with, especially when several attempts were made by them to obtain the relevant documents from the petitioner. The authorities cannot be made answerable in such a situation where the petitioner himself has been casual and negligent in attending to the requirements duly communicated to him.

22. Moreover, the petitioner failed to exercise diligence in approaching this Court and availing his legal remedies within the prescribed time. The instant petition is infected with delay and laches and hence, this Court does not find any cogent reason to invoke its writ jurisdiction to grant the reliefs as sought by the petitioner.

23. Accordingly, the instant petition is dismissed for being devoid of any merit.

24. The order be uploaded on the website forthwith.