

(2013) 07 DEL CK 0479

Delhi High Court

Case No: Writ Petition (C) 4724 of 2010

Leelu and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: July 22, 2013

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Manmohan, J

Bench: Single Bench

Advocate: Ashok Gurnani, for the Appellant; Yogesh Saini, for R-1, Mr. Sanjeev Sahay, for R-2 and 3 and Mr. Arun Birbal, for DDA, for the Respondent

Final Decision: Dismissed

Judgement

Manmohan, J.

The present writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents to allot a developed residential plot to the petitioners. The relevant facts of the present case are that the petitioners are the native of village Badli, whose ancestral land was acquired under the Land Acquisition Act in the year 1982. Admittedly, the owner of the land, namely, Mr. Prahlad Singh, during his lifetime, never applied for allotment of alternative plot. It was only in November, 2008 that the petitioner who is the original owner's son made a representation to respondent No. 2 for allotting a developed alternative plot.

- Since in the present case, the cause of action, if any, for allotment of alternative plot arose in the year 1982 and the first representation was made only in November, 2008 and that too, not by the petitioner's father whose land had been acquired, this Court is of the opinion that the present writ petition is barred by delay and latches.
- The Supreme Court in [State of Madhya Pradesh Vs. Bhailal Bhai and Others](#), has held as under:-

21.... 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 Art. 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 Art. 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.....

4. Further, the Supreme Court in Banda Development Authority, Banda Vs. Moti Lal Agarwal and Others, has held as under:-

17. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.

5. A Division Bench of this Court in Shri Sunder Singh (since deceased) through his Legal Heir Shri Rajeev Sehrawat Vs. Union of India (UOI) and Others has held as under:-

25. We are of the view that where the petitioner is so unconcerned or unwary of his case pending for compensation, he was not entitled to alternative plot of land as the scheme is introduced by the government for the benefit of those people who are in need of the land and if there is actual need existing of the petitioners, he would not have waited for such a long time to make an application for allotment and should have been vigilant.

26. Keeping in mind the scope and object of the scheme of 1961, we are of the view that since the land of the petitioner was acquired vide Award No. 1290 dated 14th March, 1962, he should have filed the application for allotment of alternative plot by 15th December, 1963. Ignorance of the scheme is no ground to grant the relief sought by the petitioner. The application for allotment of alternative plot was correctly rejected by the respondent vide letter dated 7th November, 1990.

It is trite that the time of limitation can be condoned where the delay has been satisfactorily explained. However, the time of limitation and its object is meant to close the gates of the disinterested and the ignorant persons/prosecutor like the petitioner herein. The ignorance of the law/order cannot become the ground for condoning the same. It needs no mention that ignorance of law is no excuse for not taking appropriate steps within limitation "ignorantia juris non excusat", (Swadeshi Cotton Mills case, (1975) 4 SCC 378). We are of the view that the plea of ignorance

will not sufficiently explain the delay.

27. No doubt, the scheme of allotment of alternative plots in lieu of acquired land under "Large Scale Acquisition Development and Disposal of Land In Delhi" announced by Govt. of India, Ministry of Home Affairs vide their letter No. 37/16/60-Delhi(i) dated 2nd May, 1961 is in force with effect from 2nd May, 1961 but it is not an open ended scheme where a person whose land has been acquired vide Award passed in 1962 can apply for alternative plots any time he wishes. Though in the scheme the date for application for allotment of alternative plot was not mentioned but Delhi Administration has issued public notices from time to time where it was specifically made clear that persons whose lands were acquired between the period from 1st January, 1961 and 15th November, 1963 has to apply for alternative plot before 15th December, 1963. But in the present case Notification u/s 4 was issued on 13th November, 1958 and the Award was passed on 14th March, 1962.

28. We hold that the application under the above said scheme is time barred and the petitioner was guilty of latches and undue delay. The Delhi Administration introduced scheme of alternative plot to provide better living to the person who is in genuine and urgent need of proper accommodation. The petitioner has applied in 1986 for alternative plot, however, her land was acquired in 1959. This clearly indicates that the petitioner is not in need of the land, otherwise he would not have applied after so many years. In view of our aforesaid discussion on the ground of delay and latches, we find no merit in the writ petition. The same is hereby dismissed. No costs.

Keeping in view the aforesaid mandate of law as well as the facts of the present case, the present writ petition is dismissed on the ground of delay and latches.