* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on : 06 August 2024**
Judgment pronounced on : 03 October 2024

\+ W.P.(C) 1817/2018 and CM APPL. 14359/2020, CM APPL. 19442/2020

RAM NIWAS TYAGI .....Petitioner
Through: Mr. R.K. Saini and Mr. Ravi Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITY .....Respondent
Through: Mr. Namit Suri and Mr. Arjun Kaushal, Advs.

4

\+ W.P.(C) 1840/2018 and CM APPL. 28002/2019

LAXMI NARAIN TYAGI (deceased through legal heirs) .....Petitioner
Through: Mr. R.K. Saini and Mr. Ravi Kumar, Advs.

versus

DELHI DEVELOPMENT AUTHORITY .....Respondent
Through: Mr. Namit Suri and Mr. Arjun Kaushal, Advs.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

1. This common judgment shall decide the above noted petitions which raise common questions of law and facts and can be conveniently disposed of together. The petitioners in the above noted cases are real brothers and the only difference is that the petitioner Laxmi Narain passed away on 27.03.2021 and is now represented

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through his legal heirs. Suffice to state that both the petitioners invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950 for not giving them a second chance for allotment of alternate plots despite there being recommendations to the effect by the Land & Building Department ["**L&B department**"] after acquisition of their parcels of the land. Although the entire narrative of the two writs is similar, in order to avoid any confusion, this Court shall firstly decide the writ bearing W.P.(C) no. 1817/2018 as the lead case, based on the findings of which the other writ will be decided.

BRIEF FACTS:

2. Shorn of unnecessary details, the agricultural land of the petitioner falling in the village Bodella was acquired by the government way back in the year 1968, and thereafter, the possession thereof was taken over by the government. It is acknowledged that the compensation was paid to the petitioner. It is stated that on 24.05.1975, the petitioner applied with the L&B Department, GNCTD[1] for making a recommendation in his favour for allotment of a DDA plot measuring 400 sq. yards in West Zone in terms of the policy announced by the government; that the respondent/DDA[2] *vide* letter dated 14.03.1978 offered him allotment of plot of land measuring 324 sq. mts. in Vikaspuri Residential Scheme (West Zone) at a premium of Rs. 25,207/- and he was called upon to deposit 25% of the premium within a month of the date of issuance of the letter.

[1] Government of National Capital Territory of Delhi
[2] Delhi Development Authority

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3. It is the case of the petitioner that he was not in a position to make payment, and thus, he requested the respondent/DDA to cancel the offer for the time being and consider his case later on. Acknowledging that the respondent/DDA cancelled the offer of allotment, a grievance is raised that his name was not kept in the waiting list. The petitioner then states that since 1982 he had been making repeated representations to the respondent/DDA to the effect that he has the financial capacity to make payment for allotment of an alternative plot but till 1993 nothing was heard from the respondent/DDA.

4. It is further stated that although he came to know that similarly placed persons had been allotted vacant and alternate plots in Vikaspuri and Janakpuri, his representation fell on the deaf ears of the respondent/DDA. Asserting that the respondent/DDA had given two more chances to those who were recommended for allotment of alternate plots in case they did not convey any offer at the first instance, it is stated that later on a policy resolution dated 24.08.2004 was made, as per that instead of three chances, only two chances would be given but his name was not included in the draw of lots again after 1978 till 2004.

5. It is stated that it was then intimated to him that his file has been lost/not traceable in the office of the respondent/DDA and he kept on making several representations to the respondent/DDA but in vain. Ultimately, he received a letter dated 02.03.2017 from the L&B Department, GNCTD that his case for allotment of an alternate plot was not under review and that he may approach the respondent/DDA.

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6. It is stated that after receiving the aforesaid reply, he approached the office of the respondent/DDA and *vide* office note recorded on 19.05.2017, it was observed that although three chances were to be given to such persons for availing allotment of alternate plot upto 24.08.2004 but the same was reduced to two chances, and therefore, it was suggested that a decision at the level of Vice Chairman, DDA may be taken to include his name in the draw of lots, the permission was accorded on 24.05.2017. It is, however, submitted that later on the dealing assistant intimated to him that no fresh recommendations were received from the L&B Department, GNCTD, which alone could take the final decision in the aforesaid matter.

7. It is asserted by the petitioner that in February, 2018 he came to know about a public notice published in the newspaper on 01.02.2018 by the respondent/DDA informing that a list of applicants whose names had initially been recommended for providing alternate plots, and who had not availed of / got allotment of any alternate plot till 31.10.2017 has been prepared and published on the notice board of the authorities office at INA[3] and they should check their particulars and file objections with the DDA within 10 days. It is stated that although he served a notice upon the respondent/DDA on 08.02.2018, but his name was not included in the draw of lots, thereby depriving him of a second chance to seek allotment of the alternate plot. Eventually, the present writ petition was filed, the cognizance of which was taken on 26.02.2018 and notice was ordered to be issued to the respondent/ DDA.

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THE CASE OF THE RESPONDENT/DDA:

8. The respondent/DDA in its counter-affidavit dated 20.02.2019 through its Deputy Director-LAB (Residential), Delhi Development Authority has submitted/deposed that the petitioner was offered allotment of plot *vide* letter dated 14.03.1978 and the said allotment was cancelled *vide* letter dated 23.05.1978 on account of non-payment of premium within the stipulated time frame and the case of the petitioner was closed. It is also submitted that a fresh application for recommendation for allotment of an alternate plot was rejected *vide* letter dated 10.11.1982 issued by the L&B Department, Delhi Administration, Delhi. It is submitted that the present petition which is filed after 40 years is hopelessly barred by delay and lashes.

9. Acknowledging that a representation submitted by the petitioner was received in August, 2014, it is stated that the same was not considered as the case file had already been closed in the year 1978. It is also submitted that the petitioner is not entitled to any second chance for allotment of an alternate plot since the petitioner did not surrender the plot allotted and rather it was cancelled on account of non-payment of the premium due. It is denied that the file was misplaced and rather part file was available, which was perused but then the case of the petitioner was not considered as his case had been closed way back in the year 1978. It was then claimed that the petitioner is not entitled to any relief.

W.P.(C) 1840/2018 and CM APPL. 28002/2019

10. In a similar factual scenario, the petitioner's agricultural land in

[3] Indian National Airways Market

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Bodella village was acquired by the government in 1968, and compensation was paid. In 1975, he applied to the L&B Department, GNCTD, for a recommendation for a DDA plot under a government policy. In 1978, the respondent/DDA offered him a plot in Vikaspuri, which he was unable to purchase at the time and it is the case of the petitioner that he applied for its cancellation with request that he may be offered an alternative plot later on, but his name was not placed on a waiting list. His grievance is that despite repeated representations from 1982 onwards, no further allotment was made.

11. Subsequently, the petitioner alleges that similarly placed persons received alternate plots, while his case remained ignored, culminating in a policy resolution dated 24.08.2004 reducing the number of allotment chances to two. The petitioner later learned that his file had been lost, and despite various correspondences, including an office note dated 19.05.2017 suggesting a fresh draw of lots, no action was taken. In February 2018, a public notice by the respondent/DDA excluded his name from the list of those eligible for alternate plots. Eventually, the present writ petition was filed, the cognizance of which was taken on 26.02.2018 and notice was ordered to be issued to the respondent/DDA.

THE CASE OF THE RESPONDENT/DDA

12. The respondent/DDA in its counter-affidavit dated 26.02.2019 through its Deputy Director-LAB (Residential), Delhi Development Authority has submitted that the petitioner has deliberately not impleaded the Land & Building Department, GNCTD as a party to the present proceedings. Further, the petitioner was allotted a plot on

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14.03.1978, but the allotment was cancelled on 23.05.1978 due to non-payment of the premium, and the case was closed. A subsequent application for an alternate plot was rejected on 10.11.1982 by the L&B Department, Delhi. It is pleaded that the current petition, filed after 40 years, is barred by delay and laches. It is further stated that a representation received in August 2014 was not considered, as the case had been closed in 1978; and that the petitioner is not entitled to a second chance for allotment, as the plot was cancelled for non-payment, and not surrendered. The respondent/DDA contends that the file was not misplaced, and no relief is due to the petitioner.

ANALYSIS & DECISION:

13. Having heard the learned counsels for the parties and on perusal of the record, at the outset this Court has no hesitation in holding that the petitioners have no legal right to be considered for giving or affording them a second chance for allotment of alternate plot. The plea of the petitioners that they had surrendered the plot is certainly not correct and is a gross misrepresentation.

14. It has been rightly urged by the learned counsel for the respondent/DDA that it was not a case of surrender of the alternate plot offered to the petitioners but a case of non-payment of premium by the petitioners within the stipulated time, and therefore, the allotment was cancelled *vide* letter dated 23.05.1978. Neither any representation was preferred against the cancellation of allotment nor the said order was challenged before by Court of law. Further, although a fresh application for allotment of an alternative developed plot was preferred by the petitioners, the same was rejected *vide* letter

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dated 10.11.1982 and even the said order was not challenged or assailed before any Court of law.

15. It is evident that there was a stoic silence on the part of the petitioners for more than 35 years and their representations which were decided *vide* letter dated 02.03.2017 and rejected were also not assailed in any Court of law. Incidentally, a bare perusal of the letter dated 02.03.2017 by the L&B Department would show that the recommendation dated 31.10.2014 issued by the Deputy Director (LA)/Residential/DDA for reconsideration of the case of the petitioners, was answered *vide* letter dated 26.05.2016 bringing to the notice of the respondent/DDA that the department had already considered and decided the case of the applicants and there were no grounds for reconsideration since the petitioners had failed to deposit 25% of the amount of premium for allotment of alternate plot.

16. In so far as the policy resolution item No. 52 of 2004 for regularization of delay under alternate allotment in the case of Rohini Residential Scheme is concerned, it did not confer any benefit to the petitioners as they had not voluntarily surrendered the allotment. At the cost of repetition, there has been complete silence on the part of the petitioners since the year 1982 to 2014 to assert his legal rights, if any, and thus, the present petition is hopelessly barred by delay and lashes. It is well ordained in "law that law does not help those who sleep over their rights", which legal maxim is expressed in Latin as "*vigilantibus non dormientibus jura subveniunt*".

17. All said and done, the petitioners had no vested legal right to be allotted alternative plots on acquisition of their land by the

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government. Evidently, they had been paid compensation and the scheme for allotment of alternative plot was based on fulfilment of certain terms and conditions which were not met by them.

18. Accordingly, the present writ petitions are dismissed.

19. The pending application(s) also stands disposed of.

DHARMESH SHARMA, J.

OCTOBER 03, 2024

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