

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No. 7144 OF 2010

BHOTA DEVI TH. LRS. .. APPELLANT(S)

Versus

GOVT. OF (NCT) DELHI & ORS. .. RESPONDENT(S)

O R D E R

The appellants before us, have certain lands which were acquired by the respondent Government way back in 1961. Under a Scheme dated 2nd May, 1961 for allotment of alternative plots, which plots are to be allotted at the pre-determined rates, the appellant's husband applied on 25th January, 1979 during the pendency of such scheme. Despite the inordinate delay in application and for reasons stated in a reply dated 20th January, 1980, namely, that the appellant before us is a pardanasheen lady whose husband was an illiterate person, such delay did not stand in the way according to Respondent No.1, and an allotment of a plot dated 23rd October, 1980 was made by Respondent No.1. Even the balance consideration of Rs.9,627/- was paid on 24th November, 1980, which was pocketed by Respondent No.1. Over an year and a half later, Respondent No.1, by a letter dated 6th July, 1982, cancelled the aforesaid allotment. In the first round of litigation between the parties, the Delhi High Court by

its order dated 19th October, 1984 set aside the cancellation on the ground of violation of natural justice. Thereafter, a show cause notice dated 3rd June, 1985 was served on the appellants herein, and after taking into consideration the reply, allotment of alternative plots under the scheme was rejected by a letter dated 8th August, 1985. In the second round of litigation before the same High Court, the learned Single Judge, by judgment dated 8th January, 2003 stated that since reasons for the delay had been accepted by Respondent No.1 and an original allotment having been made in 1980, Respondent No.1 could not go behind such allotment. In any case, in similar cases of delay, the Respondent No.1 had cancelled such plots, but such cancellations were set aside by the Delhi High Court, which were not appealed against. This being the case, the learned Single Judge set aside the letter dated 8th August, 1985 with a direction to allot an alternative plot within two months. In compliance with the said order, on 18th August, 2003, a plot was allotted to the appellants.

The Division Bench of the High Court, by the impugned judgment dated 30th January, 2006, found the delay of 16 years too great, and therefore, set aside the order of the learned Single Judge stating that the application of 1979 ought to have been within a

reasonable period after the last date of making an application in December, 1963 and since such application was only made in 1979 and the delay being inordinate, the order of the learned Single Judge was set aside.

In appeal before us, Shri V. Shekhar, learned senior counsel appearing on behalf of the appellants, has supported the learned Single Judge's decision, and has added that the Division Bench did not take into account the fact that in other similar cases other persons similarly situated have since been granted relief. Ms. Rachna Srivastava, learned counsel appearing for the Respondents, has urged before us that delay of 16 years is inordinate and that several persons who were similarly situated will now come forward for allotment of such plots. She also urged before us that the policy decision, that was made by D.D.A. way back in 1982, should not be disturbed.

We have heard learned counsel for the parties. In our view, the learned Single Judge was clearly right in that persons similar to the appellant have since been granted the same relief. Indeed, in R.K. Jain's case, the delay was also inordinate, (nine years), despite which the Respondents did not appeal any further from the learned Single Judge's order in such cases. In fact, a

later Division Bench judgment, by decision dated 15th July, 2002 in Tilak Ram's case, had specifically held that a delay of 16 years, as in the present case, having been condoned and original allotment having been made, it was not open to the respondents to go back on the same. This was, in fact, pointed out to the Division Bench by an affidavit filed by the Government in January, 2004, the Government pointing out that a special leave petition from the said judgment had been dismissed on the ground of delay, and this Court having observed that this case would not be considered as a precedent, was relied upon.

We may also note that the Respondents had, in the initial allotment, not put delay against the appellants, having accepted the fact that the appellant's husband was an illiterate person and the appellant was a pardanasheen lady. The further fact in favour of the appellant is that way back in November, 1980, the full amount for this alternative allotment was accepted by the Respondents. For all these reasons, we are of the considered opinion, that the learned Single Judge's order needs to be reinstated and that of the Division Bench to be set aside. Since the allotment of plot has already been in favour of the respondent, we order the D.D.A. to hand over possession of the said plot within two weeks from today.

The appeal is allowed accordingly.

.....J.
[ROHINTON FALI NARIMAN]

.....J.
[SANJAY KISHAN KAUL]

NEW DELHI,
AUGUST 16, 2017.

ITEM NO.109

COURT NO.13

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.7144/2010

BHOTA DEVI TH. LRS.

Appellant(s)

VERSUS

GOVT. OF (NCT) DELHI & ORS.

Respondent(s)

Date : 16-08-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Appellant(s) Mr. V. Shekhar, Sr.Adv.
 Mr. Jai Dev Tyagi, Adv.
 Mr.Soumo Palit, Adv.
 Mr. P. Narasimhan, AOR

For Respondent(s) Ms. Rachana Srivastava, AOR
 Ms. Monika, Adv.
 Mr. Sukrit R. Kapoor, Adv.
 Ms. Nitya Madhusoodanan, Adv.
 Mr. Sushma Suri, AOR

 Mr. Ashwani Kumar, AOR

 Mr. A.K. Singh, Adv.
 Ms. Kiran Bhardwaj, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(USHA RANI BHARDWAJ)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

Signed order is placed on the file.