

S. B. Kishore

Vs

Union of India and Others

Civil Appeal No. 5176 of 1990

(CJI Ranganath Misra, M.H. Kania JJ)

01.11.1990

JUDGMENT

1. Special Leave granted.

2. We have heard appellant in person and Mr. R.B. Dattar for the Delhi Administration and Mr. V. B. Saharya for the Delhi Development Authority. The appellant was the owner of certain land which was subjected to acquisition for purposes of development and expansion of Delhi under the preliminary notification of November, 1959 and award was made between 13-2-1962 and 7-2-1973 in installments. Under the scheme for acquisition then obtaining, the owner of the land, who was losing his property on account of acquisition, was entitled to allotment of a plot of land. There is considerable difference between the appellant on one side, and counsel for the respondents on the other, as to what exactly was the ratio of the area between the land acquired and plot to be allotted.

3. Appellant did not lay claim for allotment within a reasonable time and no action was, therefore, taken by the respondents to fulfil their obligation under the scheme. In 1981, the additional compensation was paid to the appellant. It is only thereafter that he made an application for allotment of the land stipulated in the scheme and when that was not given, he approached the Delhi High Court by applying under Article 226 of the Constitution for a direction for allotment. The Delhi High Court went into the matter but found that the appellant approached the High Court 19 years after the event, and therefore, dismissed his petition as barred by laches. That is how this appeal by special leave has been brought before this Court.

4. Some time back when the matter was before us, we had heard the appellant in person and learned counsel for the respondents- and had called upon Mr. Dattar to obtain instructions as to whether if delay was condoned, the appellant became entitled to allotment of any land. The appellant furnished some explanation about the delay in laying his claim and approaching the Court. If the matter is strictly screened, possibly the explanation for condoning this long period of inaction may be difficult to be overlooked; but there are some instances which the appellant had brought to our notice where the respondents have entertained claims belatedly. This is not such a case where we should make comparative assesment of exact periods of delay and if justification for condonation has really been made out. Taking a broad view of the matter and keeping the conduct of the respondent in view we are prepared to overlook the delay and entertain the appellant's claim. Mr. Dattar says that in 1962-63 which was the relevant period as indicated by the High Court to be taken into consideration, plots of 250 sq. yds. were being provided in cases of this type. Though the appellant has not agreed to this figure, in the absence of any other clear material we are prepared to

proceed on the footing that the appellant would have been entitled to allotment of plot of 250 sq. yds.

5. We direct the respondents to make allotment of a plot with that area to the appellant within ten weeks from today and the appellant has undertaken personally before us that he would comply with all the requirements that respondents 1 and 2 have provided under their scheme for such allotment. The preference for allotment should be in the area where the acquired land was located and we understand that it was South Delhi. But in the event of land not being available for allotment in South Delhi, some other area may be acceptable. The price to be realised shall be the price which the D.D.A. was charging in 1981 plus developmental charges. Within four weeks from today the appellant has undertaken to satisfy the conditions.

6. This order is confined to the facts of the present case and shall not be taken as a precedent. No claim shall be entertained in regard to preferences.

7. The Civil Appeal is disposed of accordingly. No.costs.

Order accordingly.

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