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

% *Date of Decision: 18th January, 2022*

+ LPA 48/2022

MOHD SULEMAN Appellant

Through Mr. R.P.S. Sirohi, Advocate.

versus

NDMC & ORS. Respondents

Through Mr. Anuj Chaturvedi, Standing
Counsel for R-1.

Ms. Shobhana Takiar, Standing Counsel for
R-2/DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

Proceedings have been conducted through video conferencing.

**CM APPL. 3051/2022 (Exemption) & CM APPL. 3052/2022 (Exemption
to file lengthy list of dates)**

Allowed, subject to all just exceptions.

Applications stand disposed of.

LPA 48/2022

1. Being aggrieved and feeling dissatisfied with the judgment dated 07.12.2021, passed by the Learned Single Judge in writ petition being W.P. (C) 13910/2021, the Appellant (Original Petitioner) has preferred the present Letters Patent Appeal.

2. We have heard learned counsel appearing on behalf of the Appellant and have looked into the facts and circumstances of the case.

3. The case of the Appellant is that he had constructed a shop in Meena Bazar, opposite Jama Masjid, Delhi in the year 1971 and had paid damages to DDA upto the year 1975. Between the period from 1975 to 1976, a demolition drive was conducted, during which the shop of the Appellant was demolished but he was not allotted any alternative shop. The contention of the Appellant is that on 11.10.1977, DDA framed a policy for allotment of alternative place or shops to Motia Khan Steel Merchants, who were evicted from Motia Khan area as their shops were demolished during the same demolition drive.

4. Learned counsel for the Appellant submits that the writ petition was filed before the Learned Single Judge, seeking a limited relief of a direction to Respondent No.1 to consider the representation of the Appellant dated 11.10.2019 and take a decision thereon, within a time bound manner. Learned Single Judge has erred in not granting the said relief and has erroneously dismissed the writ petition as being barred by delay and laches. It was the case of the Appellant before the Learned Single Judge that Respondents never responded to his representations over the years and therefore, the petition was not barred by delay.

5. Having perused the impugned order dated 07.12.2021 passed by the Learned Single Judge in writ petition being W.P. (C) 13910/2021 (Annexure A-1 to the memo of the Appeal), we see no reason to entertain the present Appeal, for the following reasons:-

- (i) The shop in question was admittedly demolished in the year 1975 and the writ petition was filed in the year 2021, which is after a period of over 46 years. There is no explanation forthcoming in the writ petition or before this Court as to why

the Appellant waited for nearly 5 decades to approach the Court except for a bald assertion that his several representations were pending with the DDA and his matter for allotment of alternative shop/site was under consideration. The writ petition was thus, clearly barred by delay and laches.

- (ii) Insofar as the argument of the Appellant that he has been making several representations which, according to him, are pending with the DDA, is concerned, the Learned Single Judge has noted that as far back as on 02.06.2010 Respondent No.1 had informed the Appellant that the matter had been considered by the competent authority and there was no scope for new entrants in the existing plan and thus, the request of the Appellant for alternative site, in lieu of the demolished shop, could not be acceded to. The letter dated 02.06.2010 is on record, appended as Annexure P-21 to this Appeal and has been independently perused by us. We find no infirmity in the finding of the Learned Single Judge that way-back in 2010 vide letter dated 02.06.2010, Appellant was duly informed that he was not eligible for an alternative shop/site. It cannot thus be contended by the Appellant that his representations had been pending over the years with no response from the departments concerned.
- (iii) Even assuming for the sake of argument that the representation was wrongly rejected by Respondent No.1, cause of action, if any, had arisen in favour of the Appellant in the year 2010. Even thereafter, the Appellant waited for 11 years before filing

the writ petition and has been unable to satisfactorily explain as to what prevented the Appellant from filing a writ petition soon after the representation was rejected.

- (iv) As far as the prayer in the writ petition for a direction to dispose of the representation dated 11.10.2019 is concerned, in our view, the Learned Single Judge has rightly noted that though seemingly, it is an innocuous prayer but clearly it is an attempt on the part of the Appellant to create a fresh cause of action in order to overcome the delay and laches and cannot be countenanced. It is a settled law that repeated representation does not extend limitation nor can be a ground to plead a fresh cause of action so as to overcome delay and laches which in this case is 46 years from the date the shop was demolished and over 11 years from the rejection of representation, with not an iota of explanation enabling this Court to condone the delay.

6. We do not find any infirmity in the impugned order and are in complete agreement with the findings of the Learned Single Judge, dismissing the writ petition.

7. There is no merit in the Appeal and the same is accordingly dismissed.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 18, 2022/rk