

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI

C.P No.D-6019 of 2015

Date	Order with signature of Judge
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1. For order on Misc. No.30313/2015 (U/A)
 2. For order on Misc. No.30314/2015
 3. For Katcha Peshi.
 4. For order on Misc. No.30315/2015 (Stay App)
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02.10.2015.

Mr. Ashiq Muhammad Khokhar, advocate for the petitioner.

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1. Urgency granted.
2. Exemption is granted subject to all just exceptions.
- 3-4. The instant petition has been filed with the following prayers:

“a. To direct respondent to maintain the whole record and issue a official certificate along with whole documents and also payment receipt to the petitioner which project has already been burnt and also issue a alternate plot in case of demolishing that hut according to law.

b. To direct the respondents No.2&3 they look after the matter by the respondent No.1 and his staff in issuance of all legal documents of the old inhabitant and area without fail or legal proceeding shall be initiated with the respondent No.1 and there responsible staff immediately.”

Brief facts of the case are that the petitioner purchased a hut measuring 60 Sq.Yds in the sum of Rs.15,000/- under the sale agreement dated 08.5.1972 from one Mst. Hajran, who was residing in the said hut since 1952. The petitioner claims that since she was residing in the said hut, she was issued survey slip by the National Construction Company as a project in the name and style Lines Area Re-Development Project KDA Scheme No.35, Karachi was made in Lines Area by the Government of Sindh. It is further stated that the record of the project was burnt in 1999 therefore the petitioner approached the respondent No.1 by filing an application dated 15.06.2006 to allot an alternate plot in 'A' category, however no action was taken by the respondent No.1, thereafter the instant petition has been filed.

Mr. Ashiq Muhammad Khokhar has appeared on behalf of the petitioner and submits that petitioner was residing in the hut for quite some time which

happened to be burnt down which was incumbent upon the respondent No.1 to allot her an alternative plot which was not done. Thereafter when the petitioner has left no alternative, the instant petition has been filed. He, therefore, submits that necessary instructions be issued to the respondent No.1 to allot the petitioner an alternative plot in 'A' category. In support of his contentions the learned counsel has relied upon the decision given in the case of "THE MUREE BREWERY CO. LTD. VS. PAKISTAN AND 2 OTHERS (PLD 1972 SC 279).

We have heard the learned counsel at some length and have perused the record.

Learned counsel was specifically asked a question how this petition is maintainable since admittedly the application was moved by her in the year 2006 and the instant petition has been filed in the year 2015 i.e. after almost 9 years of the said application. The learned counsel replied that this petition may be admitted and notice may be issued to the respondents on the humanitarian ground.

Since it is an admitted fact that the application was moved to respondent No.1 in the year 2006 and the instant petition has been filed in the year 2015 and which no plausible explanation is available with him with regard to the latches involved in the instant petition. Moreover, the learned counsel has also failed to explain that mere on the basis of residing in an area could entitle the petitioner of an allotment of plot. Again no explanation is available with the learned counsel. The decision relied upon by the learned counsel is found to be distinguishable from the facts of the case as in that judgment it was held that the High Court in the exercise of its writ jurisdiction has power to grant relief to the aggrieved party. There is no cavil to the said proposition, however, in the instant petition it is seen that the petitioner has firstly failed to satisfy the Court with regard to the maintainability of this petition on the ground of latches and secondly to show how the petitioner has become entitled to claim an alternative plot. We therefore find no merit in the instant petition, which is dismissed in limine along with the listed application.

JUDGE

JUDGE

Gulzar/PA