

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

+ **W.P.(C) 12427/2009**

PHOOLWATI Petitioner
Through Mr. Manoranjan, Adv.

versus

UOI & ORS. Respondent
Through Mr. S.P. Sharma, Adv. for R-1.
Ms. Sangeeta Chandra, Adv. for
DDA.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER
% **14.10.2009**

The petitioner prays for issue of direction to the respondents to allot an alternative plot. Counsel for the petitioner in this regard relies upon order dated 6th October, 2005, passed in W.P.(C) No.2036/2002. A perusal of the said order reveals that the petitioner had relied upon proviso to Section 21 of the Delhi Development Act, 1957 and had prayed for re-transfer of the acquired land on the ground that the DDA wanted to sell the said land without any development. The said contention was rejected and the writ petition was dismissed.

2. Learned Judge noticed that the petitioner had filed written synopsis

running into 7 pages and had made allegations and averments beyond what was pleaded in the writ petition. In the written synopsis the petitioner had claimed that she is entitled to alternative plot as agricultural land had been acquired. No such plea or prayer was made in the writ petition.

3. Learned single Judge in paragraph-15 of the decision dated 6th October, 2005 has specifically recorded that the Court had declined to grant any relief to the petitioner as prayed for. Thereafter, the learned single Judge has observed that in case the petitioner had made a requisite application for allotment of an alternative plot, the same would be processed and considered, if the petitioner is found to be entitled to an alternative plot.

4. This cannot be regarded as a direction issued by the Court to allot an alternative plot to the petitioner. In fact the petitioner's claim for alternative land was rejected in 1981.

5. The petitioner has filed copy of the order dated 4th November, 1999, passed in W.P.(C) No.3217/1996. In this writ petition, the petitioner had made a specific prayer for grant of alternative land. This writ petition was dismissed vide order dated 4th November, 1999. It is apparent that this order dated 4th November, 1999, was not brought to the notice of the

Court when W.P.(C) No.2036/2002 was disposed of. The order dated 4th November, 1999 records that the application for allotment of an alternative plot was treated as rejected vide letter dated 7th March, 1981 issued by the Secretary, Land and Building, Government of NCT of Delhi. Thereafter, the petitioner's name was withdrawn from the draw of lots.

The relevant portion of the said order reads as under:-

“The land stood acquired by Award dated 21st November, 1963, the compensation of the acquired land was paid. The land was placed at the disposal of the DDA by way of notification under section 22(1) of the DDA Act dated 3rd January, 1968. The petitioner has not established any right, title, or interest in the land and the possession of the petitioner on the land in question is that of an encroacher/trespasser. The petitioner/her husband slept over their rights from March, 1981. The recommendations in favour of the petitioner had also been withdrawn. The petitioner has concealed material facts from this Court. He is also guilty of delay and laches in approaching this Court. The letter was withdrawn in 1981 whereas the writ petition has been filed in 1996. The petitioner is not entitled to exercise of discretion in her favour under Article 226 of the Constitution. In the circumstances there is not merit in the writ petition.

Dismissed. No order as to cost.

Sd/-
C.K. Mahajan
Judge”

6. The order dated 4th November, 1999, passed in W.P.(C) 3217/1996 has become final and binding on the petitioner. The said order operates as res judicata. The petitioner cannot be permitted to raise the same issue again. The writ petition is dismissed.

SANJIV KHANNA, J.

OCTOBER 14, 2009
NA