

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

+ **Writ Petition (Civil) No.5400/2007**

% **Date of Decision: 12.08.2009**

Panchayatghar Nirman Samiti & Others Petitioners
Through Mr.Rakesh Mahajan, Mr. Gautam
Anand and Mr.Sheetesh Khanna,
Advocates

Versus

Union of India & others Respondents
Through Mr.Rajiv Bansal, Advocate for the DDA.
Ms.Shawarna, Advocate for Ms.Monica
Garg, Advocate for the respondent/UOI.
Mr.Sanjay Poddar and Mr.Mukesh
Kumar, Advocates for the respondent
No.3.

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioners seek a direction to respondent No.2 to make an allotment of alternative accommodation in favor of petitioners in lieu of the land acquired vide award No.12/2005-2006/DC (N-W) dated 5th August, 2005 in village Barwala without any development having undertaken or carried out thereon within a definite minimum possible

time frame on the term settled with due regard to the price at which the said land has been acquired from the petitioners.

2. Petitioner No.1 is alleged to be a *Samiti* of residents of Panna Harnand Village Barwala whose lands have been acquired and petitioners No.2 to 76 are its members. The petitioners have contended that consolidation proceedings were conducted in the year 1953-1954 and since then the members of the families of the holders of the land have increased manifold. It is also contended that the requirement of land for residential accommodation for right holder has also increased and requirement of *abadi* land has also increased correspondingly.

3. The petitioner asserted that the entire agricultural land measuring 6129 bighas 10 biswas of petitioners and other right holders of village Barwala had been acquired by respondent No.1 under the scheme of large scale acquisition, development and disposal of land in Delhi for purposes of Rohini Residential Scheme under the public purpose of plan development vide notification dated 11(19)2001/L&B/LA 20112 dated 21st February, 2009 under Section 4 of the Land Acquisition Act, 1894 and award No.12/2005-2006/DC (N-W) dated 5th August, 2005. According to the petitioners, the land

holders have received compensation as per the award and some of the references under Section 18 of the Land Acquisition Act for enhancement of compensation are also pending.

4. The allegation of the petitioners is that the land has been acquired by respondent No.1 and has been transferred to respondent No.2 for its development and disposal as per Rohini Residential Scheme; however, no steps have been taken by its physical development by respondent No.2. According to the petitioners they have applied for allotment of alternative plots vide different applications, the date and diary numbers of which are given in para 11 of the petition.

5. According to the petitioners, they have applied under Section 21 of DDA Act and, therefore, respondent No.2 has the power to dispose of the said land without undertaking or carrying out any development thereon. In the circumstances, it is claimed that as per the policy of the Government the petitioners are entitled for alternative plots in lieu of their acquired land, however, same has not been done despite the demand raised by them and thus the petitioners have filed the present petition.

6. The petition is opposed by the respondent No.3 contending inter alia that the petition is bad for mis-joinder of parties as each of the petitioners have independent and distinct causes of action and they cannot file a common petition seeking for joint allotment of alternative plot. It was, however, admitted that the land in question was acquired under Section 4 vide Notification dated 21st February, 2003 followed by award No.12/2005-2006/DC (N-W). According to the respondent No.3, under the Land Acquisition Act after the allotment of land the petitioners do not have a vested right for alternative plot and the reliance has been placed on Ramanand v. Union of India, AIR 1994 Delhi 29 holding that such persons have no vested right to claim alternative plot. It is contended that though the application is filed under Section 22, however, the petitioners are mis-stating that they have sought allotment under Section 21 of the DDA Act. It is contended that the applications were not filed under section 21 of the DDA Act and therefore, the petitioners have not filed the copies of the applications despite the opportunity granted to them.

7. The respondent No.3 categorically contended that the government has formulated the policy to consider the cases of such persons whose land has been acquired for planned development of Delhi and is placed at the disposal of the DDA under Section 22 of the DDA Act. According

to the said respondent, each case is required to be considered independently in the facts and circumstances individual cases. It is contended that the petitioners have not given their relevant details which would have entitled them for allotment of the land in accordance with the rules and regulations. The respondent No.3 asserted that the applications of the petitioners for allotment of alternative plot in lieu of their acquired land in the year 2006 have to be considered as per the guidelines/instructions given by Central Vigilance Commission to process the cases on first-cum-first-served basis vide circular No.40/11/06. The said respondent is alleged to have decided the cases up to the year 2000 and the applications of the petitioners shall also be processed at their turn. In the circumstances, it is contended that the petition is pre-matured and is liable to be dismissed. The petition is also contested by Delhi Development Authority/respondent no.2 contending that the petitioners seek allotment without recommendation letters from the respondent no.3 on the plea that Section 21 of the DDA Act provides for the same. Section 21 stipulates that the acquired land can be disposed of even without undertaking or carrying out any development thereon which is not admitted by the respondent no.2. It is further pleaded that the allotment of alternative plots has to be done on the basis of the policy framed and according to the recommendation letters issued to the eligible persons and thereafter by processing the

cases as recommended. It is pleaded that the petitioners do not have a vested right for an alternative allotment and the role of DDA come in the picture only after receipt of recommendation letters from the Land & Building Department.

8. I have heard the learned counsel for the parties in detail. On 7th January, 2009, it was stated before the Court that the applications for allotment of plot in lieu of the land which was acquired and placed at the disposal of the DDA as Najrul land, were filed by the petitioners in terms of Section 22 of the DDA Act and not in accordance with Section 21 of the said Act. This fact was denied by the counsel for the petitioners and time was sought to place on record copies of the applications filed by the petitioners or on their behalf for allotment of plots. Despite two weeks' time granted at the request of the counsel for petitioners on 16th March, 2009, the copies of the applications were not filed. On 16th March, 2009 again counsel for the petitioners had sought time to place on record copies of the applications made by the petitioners. The counsel was also directed to satisfy the court as to whether Section 21 of the Act is applicable to the case of the petitioners especially when the reliefs sought by the petitioners are for allotment of undeveloped land in village Barwala, Delhi.

9. Despite the opportunity and the time granted by this Court, the copies of the applications have not been filed by the petitioners. In the circumstances the plea of the petitioners that the applications were filed by the petitioners under section 21 of the DDA Act cannot be accepted. The learned counsel for the petitioners is otherwise also unable to explain that the petitioners are entitled for allotment under section 21 of the said act.

10. It cannot be dispute that Sections 21 and 22 govern development and disposal of land by the DDA. Section 21 provides for development and disposal of land acquired by the Central Government and transfer to the DDA, whereas Section 22 regulates the manner in which DDA shall deal with the Najrul land which is placed at the disposal of the DDA for the purpose of development. In AIR 1994 Delhi 29, Ramanand v. Union of India and others, the Full Bench had held that an individual whose land has been acquired for planned development of Delhi has no absolute right to allotment but he is eligible to be considered for allotment of alternative plot for residential purposes and that the DDA may allot Najrul land to such an individual in conformity with the plans and subject to other provisions of the Najrul land rules.

11. The petitioners have admitted that the land was acquired for the public purpose for the planned development for Delhi for Rohini Residential Scheme. Since the land was acquired for the planned development of Delhi, the petitioners will not have an absolute right for allotment, however, their applications for allotment of alternative plots can be considered by the respondent no.3 along with applications of others whose lands have been acquired in Delhi for the planned development according to the seniority of the applications.

12. Learned counsel for the respondent No.3 has also contended that the applications of various persons whose lands have been acquired for the planned development are considered by the respondent No.3 according to the seniority of their applications, i.e., the date on which the applications are filed. The copies of the applications of the petitioners have not been filed by them despite the opportunity granted by the court, however, since it is admitted by the respondent no.3 that the applications were filed, therefore, such application which have been sent by the petitioners which are available with the respondent no.3 shall be considered according to the seniority of the applications.

13. Learned counsel for the petitioners has also contended that the writ petition be treated as an application and their representation on behalf of the petitioners and the same be considered by respondent No.2/DDA for allotment of alternative plot. This has been specifically pleaded that in order to decide whether a particular petitioner is entitled for allotment of alternative plot various factors are to be considered which have not been disclosed by the petitioners in the present writ petition nor copies of the applications filed by them have been filed on the basis of which it could be ascertained whether on the recommendation, if any, of respondent No.3, the petitioners shall be entitled for an alternative plot.

14. Consequently, the prayer of the petitioners for direction to respondent No.2 to consider their applications cannot be accepted. However, since the respondent No.3 has contended that the applications of the petitioners shall be considered according to the seniority which is on the basis of the date of the application, the respondent No.3, therefore, shall be liable to consider the applications of petitioners No.2 to 76 expeditiously according to their seniority.

15. Therefore, for the foregoing reasons, the writ petition is partly allowed. The respondent No.3 is directed to consider and dispose of the applications of petitioners No.2 to 76 expeditiously according to their seniority which is on the basis of the date of the application. The prayer of the petitioners, however, to treat the writ petition as a representation/application to respondent No.2 is declined. The writ petition is disposed of in terms hereof. Parties are, however, left to bear their own costs.

August 12, 2009
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ANIL KUMAR, J.