

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

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Date of Decision: 20.05.2013

+ W.P.(C) 1593/2013

YOGESH

..... Petitioner

Through: Mr N.S. Dalal, Adv.

versus

LAND AND BUILDING DEPARTMENT AND ORS Respondents

Through: Ms Jhun Jhun Sarkar, Adv for respondents-
L&B

Ms Manika Tripathy, Adv for DDA

And

+ W.P.(C) 1594/2013

RAJ SINGH

..... Petitioner

Through: Mr N.S. Dalal, Adv.

versus

LAND AND BUILDING DEPARTMENET AND ANR Respondents

Through: Ms Jhun Jhun Sarkar, Adv for respondents-
L&B

Ms Manika Tripathy, Adv for DDA

And

+ W.P.(C) 1601/2013

SHRI BRAHM DUTT

..... Petitioner

Through: Mr N.S. Dalal, Adv.

versus

LAND NAD BUILDING DEPARTMENT AND ORS Respondents

Through: Ms Jhun Jhun Sarkar, Adv for respondents-
L&B

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

1. The case of the petitioner in W.P(C) No. 1593 is that vide Award No. 15/92-93 of Village Behlol Pur and Award No.14/92-93 of Village Kilokri, land of his grandfather, namely, Shri Khiman, was acquired by the Government. The grandfather of the petitioner expired on 29.06.1994 and according to the petitioner other legal heirs executed Relinquishment Deed in favour of his father Shri Jai Chand, who was paid compensation by the Government. This is also the case of the petitioner that in the year 1994, his father submitted an application for allotment of an alternative plot in terms of the scheme for Large Scale Acquisition Development and Disposal of Land in Delhi, notified by Government of India vide its letter dated 02.05.1961. The father of the petitioner expired on 16.05.2006 and documents in this regard are stated to have been submitted by the petitioner. The grievance is that no recommendation has so far been made by the Government for allotment of an alternative plot to the petitioner, despite his having completed all the formalities required for the purpose.

2. The case of the petitioner in W.P.(C) No. 1594/2013 is that the land belonging to his father was acquired vide Award No. 15/92-93 dated 20.06.1992.

The father of the petitioner expired on 15.07.1993 and according to the petitioner compensation was paid to him on 20.06.1994. The petitioner claims to have applied on 31.08.1994 for allotment of an alternative plot under Large Scale Acquisition Development and Disposal of Land in Delhi, notified by Government of India vide its letter dated 02.05.1961. According to him though a check memo was prepared sometime in the year 1998, no recommendation has so far been made. In its counter-affidavit, respondent No. 2-DDA has stated that no recommendation has so far been received by it for allotment of an alternative plot to the petitioner. No counter-affidavit has been filed by respondent No.1.

3. The case of the petitioner in W.P(C) No. 1601/2013 is that his land in village Behlol Pur was acquired vide Award No. 15/92-93. He claims to have submitted an application in the year 1994 for allotment of an alternative plot under Large Scale Acquisition Development and Disposal of Land in Delhi, notified by Government of India vide its letter dated 02.05.1961. He received a letter from respondent No.1, requiring him to submit the payment certificate. The said certificate, according to the petitioner, was duly submitted by him on 22.05.2012. He also claims to have submitted some other documents vide his letter dated 27.02.2013 vide receipt vide diary No. 7852. In this case also the grievance of the petitioner is that though he applied for allotment of an alternative plot way back in the year 1994 and also submitted the requisite documents, no recommendation has

so far been for an alternative plot to him. In its counter-affidavit, respondent No. 2-DDA has taken a stand that no recommendation has so far been received by it for allotment of alternative plot to the petitioner.

4. A similar petition being W.P(C) No.2118/2013 came up for consideration before this Court and on 22.4.2013. The turn of the petitioner in that case, for allotment of alternative plot having matured, his application was under scrutiny when the writ petition came up for hearing. The petitioner in that case, considering the abnormal delay on the part of the respondent in making recommendation for allotment of alternative plot to him, wanted the Court to straightaway direct allotment within a time-bound manner instead of directing decision on his application pending with the government. In this regard, the petitioner in that case relied upon the decision of this Court in W.P(C) No.4043/2008 decided on 8.4.2009. The petitioners in this case are also relying upon the very same decision of this Court. Rejecting the prayer to direct straightaway allotment of alternative plot to the petitioner, this Court, *inter alia*, observed and held as under:

4. I have carefully examined the judgment relied upon by the learned counsel for the petitioner. In the above referred case, the father of the petitioner died intestate on 30.1.1994 leaving behind three sons and six daughters. The petitioner before this Court claimed that all other legal heirs had released their respective shares in the alternative plot, in his favour by virtue of a registered relinquishment deed dated 6.6.2001. In its counter affidavit, Government of NCT of Delhi stated that one

Mr. Raj Singh Malik, brother of the petitioner, had addressed a protest letter dated 29.8.2002 to them alleging therein that the relinquishment deed submitted by the petitioner was a forged and fabricated document and that he had not relinquished his share in the alternative plot in favour of the petitioner. It was further stated in the counter affidavit that it was for that reason that the respondent could not proceed further in the matter. It would thus be seen that the only ground given by the Government of NCT of Delhi in its counter affidavit, for not processing the application of the petitioner for allotment of alternative plot was the protest letter sent to them by his brother Raj Singh Malik. In the above referred case, considering the objections made by Mr. Raj Singh Malik, a concession was given by none other than the counsel for the petitioner, that the allotment could be made to all the legal representatives of late Shri Mohan Lal Malik, father of the petitioner. It was in these circumstances that the Court directed allotment of plot to all the legal heirs of late Shri Mohan Lal Malik. On the other hand, in the case before this Court, the contention of the learned counsel for the respondent - Government of NCT of Delhi is that a large number of applications have been received by them for making recommendations to DDA for allotment of alternative plot to the persons whose lands have been acquired for planned development of Delhi and infrastructure available with them being limited, it has not been possible for them to consider all such applications made so far.

5. The learned counsel for the respondent- Government of NCT of Delhi stated that all such applications pending with them are being taken by them for consideration strictly in the order of seniority, as per the date of receipt of such applications by them and the status of those applications has been made available on their website. Two lists have been prepared – one in respect of applications received till the year 2000 and the other in respect of the applications received after the year 2000.

She further states that for the present, they are considering only those applications which they had received upto the year 2000 and which have been included in the first list prepared for this purpose.

6. It is also not in dispute that there are a number of persons who have been recommended allotment of alternative plot by Government of NCT of Delhi, but have not been made allotment so far by the DDA. The persons who submitted the application earlier than the petitioner and in whose cases recommendations have already been made to DDA, must necessarily be given precedence over the petitioner, who submitted the application later and in whose case no recommendation has so far been made for allotment of alternative plot. There is no way the petitioner can be given precedence in allotment over those who have already been recommended and are waiting allotment by DDA. No preference over those people can be granted to the petitioner merely because they are not before the Court, whereas the petitioner has decided to approach the Court.

5. Following the decision dated 22.4.2013 in W.P(C) No.2118/2013, these writ petitions are disposed of with the directions that wherever the case of the petitioner has already matured for consideration but the scrutiny of the application has not been completed, the same shall be carried out and completed within a period of eight weeks from today and the objections, if any, shall be communicated to the concerned petitioner within four weeks thereafter. Deficiency, if any, shall be removed by the concerned petitioner within four weeks of receipt of communication in this regard from the respondent. Appropriate decision on the application of the petitioner for allotment of alternative plot shall be taken within eight weeks of the petitioner removing the further deficiencies, if any, and will

thereafter be communicated to him by the respondent - Government of NCT of Delhi. In cases where the applications of the petitioner has not so far been matured for consideration, scrutiny of the applications would be taken up only when such applications mature for consideration at its turn. Thereafter, the scrutiny will be completed within a period of eight weeks from the date it is taken up and the objections, if any, shall be communicated to the concerned petitioner within eight weeks thereafter. Deficiency, if any, shall be removed by the petitioner within four weeks of receipt of communication in this regard from the respondent. Appropriate decision on the application of the petitioner for allotment of alternative plot shall be taken within four weeks of the petitioner removing the deficiencies, if any, and will thereafter be communicated to him by the respondent - Government of NCT of Delhi.

All the writ petitions stand disposed of in terms of this order.

V.K. JAIN, J

MAY 20, 2013
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