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IN THE HIGH COURT OF DELHI AT NEW DELHI

18.

+ W.P.(C) 4848/2013

SARDAR SINGH

Through

..... Petitioner

Mr. J.V. Rana, Advocate

versus

LAND & BUILDING

DEPARTMENT & ANR

Through

..... Respondents

Mr. Sanjeev Sahay, Advocate

AND

19.

+ W.P.(C) 4849/2013

BHIM SINGH

Through

..... Petitioner

Mr. J.V. Rana, Advocate

versus

LAND & BUILDING

DEPARTMENT & ANR

Through

..... Respondents

Mr. Sanjeev Sahay, Advocate

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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02.08.2013

CM APPL. 11001/2013 in W.P.(C) 4848/2013

CM APPL. 11002/2013 in W.P.(C) 4849/2013

Allowed, subject to just exceptions.

W.P.(C) 4848-4849/2013

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W.P.(C) 4848/2013 & 4849/2013

Present writ petitions have been filed by two brothers under Article 226 of the Constitution seeking quashing of the order dated 23rd April, 2013 by virtue of which their applications for allotment of alternative plot in lieu of their acquired land has been rejected.

The impugned order passed in one the cases by the Recommendation Committee constituted to recommend allotment of alternative plot is as under:-

853	<i>F.33(47)/38/97-98/L&B/Alt</i>	<i>Sardar Singh S/o Maha Singh (Khera Khurd)</i>	<i>The case was considered by the Committee and it was observed that Shri Sardar Singh, the applicant vide this office letter of even number dated 19.03.2013 was requested to submit the following documents/information:</i> <i>1. Relinquishment Deed executed by the other legal heirs of the deceased.</i> <i>2. Food Card, Election I-Card and 3 specimen signature duly attested</i> <i>3. Affidavit in prescribed format for not owning immovable property in urban area of Delhi including Group Housing Society Membership details</i> <i>4. Indemnity Bond</i> <i>5. Status of land not acquired along with complete revenue record.</i> <i>The applicant has filed reply to the said letter on 10.04.13. In the said reply he has informed the status of the unacquired land along with a copy of khatauni for the year 2003-04 which indicates that all of the brothers including the applicant are</i>
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			<i>having their share in the land measuring 11-9 which reflects that the said land has not been acquired yet. As the land of the applicant has not been acquired in the entirety, in view of the judgment in case titled "Delhi Administration vs. Jai Singh Kanwar, (C.A. No. 8289 of 2010, dt. 14/9/11 of SCI), the case is REJECTED.</i>
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Though Mr. J.V. Rana, learned counsel for the petitioners candidly admits that petitioners are owners of other agricultural land approximately four bighas each, he points out that petitioners had given affidavits of undertaking to respondents stating that they will not claim alternative plots for remaining land, if acquired. Consequently, he submits that petitioners are entitled to allotment of an alternative plot.

On the other hand, Mr. Sanjeev Sahay, learned counsel for respondents states that the present controversy is squarely covered by the judgment of the Supreme Court in *Delhi Development Authority vs. Jai Singh Kanwar & Ors., Civil Appeal No. 8289/2010* decided on 14th September, 2011.

Having heard the learned counsel for parties, this Court is of the opinion that petitioners do not have a legal vested right for allotment of an alternative plot in lieu of their acquired land. The respondents are allotting plots to persons whose lands have been acquired under a welfare scheme. Consequently, only those who fulfil the eligibility criteria shall be entitled to allotment under the said Rehabilitation Scheme.

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The Supreme court in *Delhi Development Authority vs. Jai Singh Kanwar & Ors.* (supra) has mentioned that one of the eligibility conditions for allotment of alternative plot is that applicant should neither own a house/residential plot/flat in a village abadi in his own name or in the name of his spouse or his dependent relations nor he be a member of any co-operative housing society. Thereafter the Supreme Court has observed as under :-

"6. The object of the Scheme is that when the land owned by a person is taken away in entirety and he is left without any house or plot, he should be allotted a plot. The Scheme therefore provided that only a person who does not own a house/residential plot/flat will be entitled to apply....."

In view of the aforesaid categorical interpretation of the respondents' Scheme, this Court is of the view that only those applicants whose land have been taken away in entirety are entitled to an alternative house/plot/flat. The distinction sought to be drawn by the learned counsel for petitioners that petitioners have given undertaking that they would not seek allotment of alternative house/plot/flat in the event their remaining land is acquired, is of no relevance. Consequently, as the petitioners' entire land has not been taken away by acquisition, petitioners are not entitled for an alternative house/plot/flat.

With the aforesaid directions, present writ petitions are dismissed.


MANMOHAN, J

AUGUST 02, 2013

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