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

+ **W.P.(C) 618/2015**

S. TARA SINGH

..... Petitioner

Through: Ms Karuna Chhatwal, Adv. for Mr
Joginder Sukhija, Adv.

versus

GOVERNMENT OF NCT DELHI & ANR

..... Respondents

Through: Mr Biraja Mahapatra & Mr Chaitanya
Sahoo, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **10.08.2015**

1. This is a writ petition directed against the respondents for issuance of a direction for allotment of an alternate plot in lieu of acquired land. In effect, the writ petition has been directed against the communication dated 23.07.2014, issued by the respondents.

2. A perusal of the said communication would show that the only ground, on which the petitioner's application for being allotted an alternate plot has been rejected, is that, his name did not get reflected as a "recorded owner" in the revenue record since, mutation was not carried out. For this purpose, the respondents relied upon the following provision made in the guidelines formulated by respondent no.1 i.e. Govt. of NCT of Delhi, for allotment of alternate plots:

“....1. For awards announced pre 3.4.1986 land should have been purchased prior to issue of notification u/s 4 of Land Acquisition Act and mutation must have carried out in their

names....”

3. The petitioner being aggrieved preferred the instant writ petition, under Article 226 of the Constitution.

4. In order to adjudicate upon the present writ petition, the following brief facts are required to be noticed.

4.1 The father of the petitioner herein, namely, one, Sh. S. Surjan Singh, on 12.07.1955 purchased a parcel of land located at village Shakurpur, Delhi, situate in Kila No. 16, Khasra No. 28, admeasuring 166 sq. yds. This plot was acquired, apparently, from, one, Sh. Jaidev and Sh. Than Singh.

4.2 The respondents issued a notification under Section 4 of the Land Acquisition Act, 1894 (in short the Act), on 24.10.1961, whereby it sought to acquire large parcels of land, which included the land belonging to the petitioner’s father, for planned development of Delhi.

4.3 Consequent thereto, steps were taken, inter alia, for issuance of a notification under Section 6 of the Act, which eventually, culminated in an award being passed qua the aforementioned land. The said award is numbered as: 1951/67. Admittedly, the petitioner herein has received compensation for the aforementioned land acquired by the respondents.

4.4 In the interregnum, an application was filed by the petitioner for allotment of an alternate plot under the scheme so formulated by the respondents. This application was filed on 18.01.2001. The respondents, however, as noted above, rejected the application on 23.07.2014.

5. I have heard the learned counsels for the parties. According to me, the following emerges from the record:

(i) The petitioner’s father was the owner of the land in issue; a fact which is not disputed by the respondents.

(ii) The petitioner has received compensation for the acquired land by virtue of award bearing no. 1951/67.

(iii) An application was made for allotment of an alternate land on 18.01.2001.

(iv) The petitioner's father had purchased the acquired land prior to issuance of the notification issued under Section 4 of the Act. As noted above, the land so acquired, was purchased on 12.07.1955, while the Section 4 notification was issued on 24.10.1961.

6. In these circumstances, it is quite clear that in so far as the first part of clause (1) of the guidelines is concerned (which has been extracted hereinabove), the same stands fulfilled. The respondents' objection is vis-a-vis the second part of clause (1) which required mutation to have been carried out in the name of the applicant.

7. According to me, this is a ministerial aspect of the matter. The substantive aspect is the ascertainment of the fact as to whether the person applying for an alternate plot is the person whose land was acquired prior to the issuance of the Section 4 notification. As long as that is established, in my view, the respondents cannot reject the application solely on the ground that mutation was not carried out in the name of the applicant. The fact that the applicant was not the recorded owner since, mutation was not carried out in his name (or in this case in his father's name), is an aspect which did not deter the respondents from acquiring the land, and if that be so, it, surely, cannot come in the way of the consideration of the petitioner's application for being allotted an alternate plot.

8. Accordingly, the communication dated 23.07.2014, is set aside. The respondents will issue a fresh notice to the petitioner indicating therein the

date, time and venue when, he would be required to present himself. The respondents will accord a personal hearing to the petitioner. The notice will indicate documents, if any, which the petitioner is required to place before the Recommendation Committee; whereupon, the Recommendation Committee will pass a speaking order; a copy of which will be supplied to the petitioner, within two weeks of the same being passed.

9. The aforesaid exercise will be completed with due expedition, though, not later than two (2) months from today.

10. The writ petition is disposed of accordingly.

RAJIV SHAKDHER, J

AUGUST 10, 2015

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