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

+ W.P.(C) 3826/2014 & CM No. 7719/2014

MIR SINGH & ORS. Petitioners

Through: Mr A.K. Nijhawan, Adv.

versus

GOVT OF NCT & ORS. Respondents

Through: Mr Priyabrat Sahu & Mr Siddharth
Panda, Advs. for R- 1 & 3.

Mr Kush Sharma, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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13.07.2015

1. This is a petition whereby challenge is laid to the communication dated 25.02.2014, issued by the Land & Building Department, Govt. of NCT of Delhi (in short GNCTD).

2. By virtue of the impugned communication, the petitioners' request for allotment of an alternate plot in lieu of the acquired land has been rejected on the ground that as per the record available with the GNCTD, the entire land had not been acquired. In this regard, in the impugned communication, reference is made to the land situate in Khasra No. 11/3/1, admeasuring 4 bighas and 6 biswas. The impugned communication has been sent based on the observations of the Recommendation Committee, made in their meeting, held on 22.01.2014.

3. The record shows that, when notification dated 13.12.2000 under Section 4(1) of the Land Acquisition Act, 1894 (in short the Act) was issued, amongst other parcels of land, reference was made to land situate in Khasra No. 11/2/2, admeasuring 16 biswas and land located in Khasra No. 11/3/2,

admeasuring 4 bighas and 6 biswas.

3.1 In the said notification, there is no reference to the land admeasuring Khasra No. 11/3/1, which the respondents say was not acquired.

3.2 It is the case of the learned counsel for the petitioner that Khasra No. 11/3/2 is not in existence and that the only parcel of land, which is, in existence, is that, which falls in Khasra No. 11/3/1 which, again according to the petitioner, has been acquired contrary to what has been stated in the impugned communication.

3.3 For this purpose, learned counsel for the petitioner has referred me to the Khatoni, which is, appended at page 74 of the paper book. The said Khatoni, does refer, inter alia, to the parcel of land located at Khasra No.11/2/2 and 11/3/1.

4. Learned counsel for the petitioners has also drawn my attention to the proceedings carried out by the concerned authority, at a point in time when possession of the notified land, was acquired. Based on the proceedings, it is suggested by the learned counsel for the petitioners that what has been recognized, is that, there were mistakes in notifying the correct Khasra number and that this correction had to be carried out. According to the learned counsel for the petitioners, one of the corrections which had to be carried out was vis-a-vis Khasra No. 11/3/2. It is the learned counsel's contention that the said Khasra number had to be corrected to reflect Khasra No. 11/3/1. For this purpose, learned counsel relies upon page 105 of the paper book.

5. As against this, learned counsel for the GNCTD/respondents has referred me to the application filed by the petitioners for allotment of an alternate plot. Learned counsel has drawn my attention to the fact that in the column relating to khasra numbers of the acquired land, there is no reference

to Khasra No. 11/3/1. Learned counsel has also made it a point to highlight the fact that while Khasra No. 11/2/2 has been referred to, there is no reference to Khasra No.11/3/1.

5.1 I may, at this juncture, also point out that there is also no reference to Khasra No. 11/3/2.

6. At this stage, it may also be pertinent to note, one other aspect which, the learned counsel for the petitioners sought to bring to my notice, which is, information received by the petitioners via the RTI route. Annexure P-12 at page 253 of the paper book purports to be the recommendation of the allotment committee. A perusal of the said recommendation seems to indicate that the petitioners' land was acquired pursuant to the notification dated 13.12.2000, issued under Section 4(1) of the Act; a notification to which I have made a reference hereinabove. The said recommendation also refers to the fact that possession of land was taken on 20.08.2002 and compensation thereto was received by the petitioners on 27.11.2002. The recommendation goes on to state that since the petitioner fulfilled all eligibility conditions, he was eligible for allotment of an alternate plot, admeasuring 250 sq. yds., located in West Zone.

6.1 While, the petitioners relies upon this recommendation to establish their case, for allotment an alternate plot, they dispute the fact that compensation has been received by them.

6.2 As noted above by me, Section 4 notification speaks of Khasra No. 11/3/2 and not with regard to Khasra No. 11/3/1.

7. In view of the above, it is obvious that there is some discrepancy in mentioning of the correct Khasra numbers; an aspect which requires a closer scrutiny by the GNCTD/ respondents. The fact that the Khatoni does not refer to Khasra No. 11/3/2 is borne out from the extract of the Khatoni

appended at page 74 of the paper book. Furthermore, there is also a case made out by the learned counsel for the petitioner for correction of the khasra number in view of what is said in the document capturing possession proceedings; to which, I have made a reference hereinabove. The relevant part of these proceedings are appended at page 105 of the paper book.

8. Learned counsel for the GNCTD/ respondents, in the course of his submission has said that even if it is assumed that there is a discrepancy in the mentioning of correct khasra number, the same would have to be corrected before the petitioners' application for alternate allotment can be considered.

9. Having regard to the aforesaid, I am of the view, GNCTD/respondents need to re-examine the issue. Accordingly, the impugned communication is set aside with a direction to the respondents to re-examine the issue and, for this purpose, give a personal hearing to the petitioner. The GNCTD/ respondents will take into account the submissions made by the petitioner before me and then pass an appropriate order in the matter. The needful will be done with due expedition, though not later than three (3) months from today. Upon reaching a conclusion, one way or the other, the GNCTD/ respondents shall communicate its decision to the petitioner, in writing, by way of a speaking order.

10. The writ petition is disposed of with the aforesaid directions.

RAJIV SHAKDHER, J

JULY 13, 2015

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