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

\+ W.P.(C) 6989/2012

D.K.AGARWAL ..... Petitioner
Through: Ms. Rashmi Jain, Advocate

versus

GOVT. OF DELHI AND ORS ..... Respondents
Through: Mr. Vinod Wadhwa, Advocate
Mr. Abhishek Kr. Singh for Mr. Kunal Sharma, Advocates for R-3/DDA

**CORAM:**
**HON'BLE MR. JUSTICE RAJIV SHAKDHER**

**O R D E R**

**% 12.03.2015**

1. By this petition, a challenge is laid to the undated order, appended at page 77 of the paper book. By this order, the respondents have rejected the petitioner's claim for allotment of an alternate plot only on the ground that the application for the said purpose was not moved within one year from the date when the compensation was paid to the petitioner.

2. At the time when notice was issued in the petition i.e., 05.11.2012, I had detailed out the controversy in the matter. I do not wish to replicate the same. The observations made on 05.11.2012 are extracted hereinbelow for the sake of convenience :-

> "..The petition is directed against the respondents' rejecting petitioner's claim for being allotted an alternative plot. This communication, which was apparently sent to the petitioner is undated and is appended at page 77 of the paper book.
>
> It is not in dispute that the petitioner's land was acquired and an award was passed. The petitioner, evidently, has

received compensation against the acquisition of his land, on 06.03.1998. It appears that interest was also awarded to the petitioner in respect of which tax at source was deducted. Evidently, the petitioner was neither issued payment certificates nor TDS certificates, which is why, an application was moved by him, on 21.05.1999 (see page 44). Apparently, the payment certificate has been issued on 24.05.1999 (see 45 of the paper book). Learned counsel for the petitioner says that, the petitioner also received the TDS certificates sometime, in May, 1999.

A perusal of the order of refusal, which is appended at page 77, as indicated above, indicates that the respondents had issued a public notice on 30.11.1993, seeking applications for allotment of alternative plots. The applications for alternate allotment of land were to be filed with the concerned authority on or before 31.01.1994 or within one year from the date of completion of acquisition proceedings, whichever was later.

It is the contention of the learned counsel for the petitioner that, since payment certificates were issued on 24.05.1999, and the TDS certificate was issued in May, 1999 the period of one year will commence only from May, 1999.

Mr. Verma, on the other hand has referred me to, section 16 of the Land Acquisition Act, 1984, to contend that, on payment of compensation and possession of land which follows almost simultaneously, the acquisition proceedings come to an end. It is Mr. Verma's contention that, since compensation was paid on 06.03.1998, the petitioner's application had been rightly rejected as even as per the petitioner, the application for alternate allotment was filed five (5) months beyond the period prescribed i.e., 06.08.1999. In other words, the period of one year from the date of payment of compensation (i.e., 06.03.1998), would expire on 05.03.1999.

Learned counsel for the petitioner, however, contends

> that payment would include credit for tax since certificates were issued only in May, 1999, the period would begin from the said date. This argument proceeds on the basis that the petitioner received payment after deduction of tax. If no credit was given in May 1999, the payment received would be deficient. It is only on receipt of TDS Certificate that receipt of payment stands completed..."

2.1 Pursuant to issuance of notice, respondents have filed their counter affidavit. It is evident on a perusal of the counter affidavit and the submissions made before me that the stand of the respondents is that since the period of one year from the date of payment of compensation, expired on 05.03.1999, the application for alternate allotment was not considered. What is not disputed before me, is that, payment certificate was issued to the petitioner only on 24.05.1999. It is also not in dispute that TDS certificates were issued to the petitioner only in May 1999. According to me, deposit of tax on behalf of the petitioner and consequent issuance of the TDS certificates would complete the process of payment of compensation. This is because if for some reason withholding tax is not deposited and TDS certificates are not issued, the recipient of compensation will be entitled to further amounts towards compensation. Since, TDS certificates in this case were issued only in May 1999, the period of one year will commence only from such date.

3. In that view of the matter, the impugned order is set aside. The respondents will, accordingly, consider the application of the petitioner on merits for allotment of an alternate plot.

4. Needless to say, the said exercise will be done as expeditiously as possible though not later than six weeks from today.

5. With the aforesaid observations in place, the captioned petition is disposed of.

**RAJIV SHAKDHER, J**

**MARCH 12, 2015**
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