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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 719/2015**
OM PRAKASH

..... Petitioner

Through Ms. Namita Roy, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Dev. P. Bhardwaj, Adv for UOI.
Mr. Yeeshu Jain, standing counsel
with Ms. Jyoti Tyagi, Adv for L & B.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **22.09.2016**

The petitioner is aggrieved by the letter of rejection dated 19.08.2013 vide which his application seeking allotment of an alternate plot had been declined. This letter had communicated to the petitioner that since the entire land of the petitioner had not been acquired and he still had balance land in view of the judgment of the Apex Court (reported in Delhi Administration Vs. Jai Singh Kanwar decided on 14.09.2011 in C.A. No.8289/2010), he was not entitled to allotment of an alternate plot.

Record shows that the land of the petitioner had been acquired on 05.09.1998 vide Award no. 2/D.C.W/98-99. The application seeking allotment of an alternate plot was filed on 17.02.1999. Documents were thereafter filed by the petitioner. On the perusal of the documents, the aforementioned order (dated 19.08.2013) rejecting his

prayer had been passed.

There are certain facts which are not in dispute. It is not in dispute that the total land of the petitioner was 101 bigha and 5 biswas in village Hiran Kudna. The land which was acquired and for which he had received compensation was 27 bighas and 15 biswas. This statement of fact is admitted by the petitioner. The original record of the Department has been perused including the khatoni which discloses this fact. At the cost of repetition, the fact that the petitioner has remaining land is not disputed.

Two contentions have been raised by the petitioner. The first submission is that the ratio of the judgment of Jai Singh Kanwar is not applicable to the facts in hand. That judgment was passed in the peculiar facts of that case. It cannot be applied as a ratio. The second submission is that the petitioner's case has been distinguished for the reason that many farmers in the same village whose lands have been acquired had been granted an alternate plot.

On both counts, the respondent has refuted these submissions.

A perusal of the judgment of Jai Singh Kanwar and particularly para 6 noted herein:-

“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”

fortifies the stand of the Department that where the land of the petitioner has not been acquired in its entirety, his case cannot be

considered for allotment of an alternate plot. The object of the Policy for allotment of an alternate plot was to give succour to those persons who were left completely landless/homeless on the acquisition of their land; they did not have any house to live in.

In this case, the petitioner admittedly has balance land. Since the entire land of the petitioner has not been acquired, he would not have been entitled to alternate plot. It cannot be said that the judgment of Jai Singh Kanwar is not applicable. The second submission of the petitioner that many other farmers had been granted an alternate plot is a bald submission as it is bereft of any particulars; no details have been given. That apart on a specific query put to the learned counsel for the petitioner, he does not dispute that if an alternate plot was given to other farmers, it would be prior in time to the judgment of Jai Singh Kanwar (14.09.2011).

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 22, 2016

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