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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1376/2015

MANJU BALA

..... Petitioner

Through Mr. N.S. Dalal, Ms. Ruchika Sharma
and Mr. Aman Mudgal, Advs.

versus

LAND AND BUILDING DEPARTMENT

..... Respondent

Through Mr .P. Venkatesan and Mr. Siddharth
Panda, Advs.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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04.08.2016

The petitioner before this Court had been served a rejection letter dated 05.09.2014 rejecting his plea for alternate plot on the ground that the spouse of the applicant had an urbanized property bearing No. 2099/1, Nai Basti, Anaj Mandi, Narela, Delhi and hence the case of the petitioner could not be considered.

The petitioner before this Court is Manju Bala. Her contention is that the Award dated 19.12.1997 was passed in which the land of the petitioner (village Shahpur Garhi, New Delhi) had been acquired. On 01.06.1999, the petitioner had filed an application for alternate plot. She had completed all formalities. Her case was being considered. She was also asked to submit documents. A query qua a government accommodation i.e. Flat No. 6, Laxmi Bai Nagar, Market, was sought by the Department from the petitioner wherein it was informed to the Department that this was a Government

accommodation whether she was living along with her husband and this Laxmi Bai Nagar flat was not owned either by her or by her husband. Further documents were also sought for from the petitioner. However on 05.09.2014, the aforementioned communication was received by the petitioner informing her that since her spouse has a property in Nai Basti, Anaj Mandi, Narela, her application could not be considered for an alternate plot.

Learned counsel for the petitioner, at the outset, has placed on record a scheme wherein his contention was that the policy of the Government was that the applicant should not own a house either in her name or in the name of her dependent. A specific query has been put to the learned counsel for the petitioner as to whether if the spouse of the party had any accommodation would that also be a hurdle for the applicant in getting an alternate plot, the categorical answer was a 'no'. Submission is that this scheme does not include the word 'spouse'. This Court was in doubt about this preparation canvassed which as per the petitioner was based on a downloaded scheme from the internet. The matter was passed-over. In the post lunch, learned counsel for the Department has placed the scheme on record which clearly records the eligibility criteria for a person who is entitled to an alternate plot. The relevant extract reads herein as under:-

“The applicants should not own a house/residential plot/flat out of village abadi in his/her own name or in the name of his wife/husband or any of his/her dependent relations including unmarried children nor he should be a member of any Co-operative Housing Society.”

The word 'wife/husband' clearly finds mention meaning thereby that if the spouse of the applicant has either residential plot in his name or her name, such a person would not be entitled to an alternate accommodation.

The rejection letter was primarily on this ground; the ground in the rejection letter being that the husband of the petitioner had property No. 2099/1, Nai Basti, Anaj Mandi, Narela, Delhi. The fact that the husband of the petitioner owns a portion of this property is not in dispute. He admittedly is the co-owner of this property. In this view of the matter, the rejection letter having rejected the claim of the petitioner on this ground suffers from no infirmity.

At this stage, a second argument has been canvassed by the learned counsel for the petitioner which is to the effect that this embargo would not apply if the residential house of the spouse of the petitioner is located in an urbanized area as is so in the instant case. Attention has again been drawn to clause 3 (noted supra) of the aforementioned scheme. Submission being that there is difference between the old policy and new policy and the new policy only envisages that residential plot/flat should not be in a part of village abadi and since the property in question owned by the husband of the petitioner is urbanized land, this clause would not be attracted.

At the cost of repetition, this is not the object of the policy. The object of the policy whether it was old or new was the same. The whole object of this policy was to provide succour to those persons who were completely landless or not having any house to live in; it would be for those persons only whose land in complete entirety had

been acquired and thus did not have any shelter. The persons who were owning alternate accommodations or who had residential covers over their head were not entitled to alternate plots. If the residential cover was in an urbanized area, it would not wash away the hurdle envisaged in the scheme and would not (as has been argued by the learned counsel for the petitioner) entitle the petitioner for consideration of an alternate plot. This would also be against the ratio of the judgment delivered by the Apex Court in Delhi Administration Vs. Jai Singh Kanwar in C.A. No.8289/2010 decided on 14.09.2011.

This argument of the learned counsel for the petitioner is also without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 04, 2016

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