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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3356/2013

RISHI PAL

..... Petitioner

Through

Mr.S.S.Panwar, Advocate.

versus

GOVT OF INDIA & ORS

..... Respondents

Through

Mr.Manish Mohan, CGSC along
with Ms.Priyansha Sinha, Advocate
for R-1.

Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advocate for R-2 and R-3.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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29.07.2016

Petitioner is aggrieved by the communication dated 06.9.2012 wherein his request for allotment of alternate plot had been rejected as the balance of 1 bigha and 4 biswas was still the remaining land with him where he has admittedly built a house and which he was using for residential purpose. His submission is that although admittedly 1 bigha and 2 biswas of land has been left with him but as per the new policy for allotment of alternative plot (framed in the year 1964) the only embargo was that the petitioner and his heirs must not have any plot outside the village abadi; even assuming that the petitioner had 1 bigha and 2 biswas of land left with him upon which he had built a house but this was a part of village abadi Mahipalpur and as such the submission of the Department that the house should not be owned by the petitioner outside the village of village abadi has not been met with.

Learned counsel for the Department has controverted these submissions. She submits that in view of the law laid down by the Apex Court in Delhi Administration Vs. Jai Singh Kanwar in C.A. No.8289/2010 decided on 14.09.2011 particularly para 6 which has interpreted the policy of the Government of India for allotment of an alternate plot, it is only when land has been acquired in its entirety, the party is entitled for allotment of an alternate plot and in the absence of which his request for allotment of an alternate plot cannot be considered. Relevant extract of para 6 of this is judgment quoted herein as under:

“Neither the application nor the documents produced by the applicant Om Singh Kanwar averred or established that Chhajju Singh did not own a plot or flat or residential house and that he was not a member of any Co-operative Housing Society. In the circumstances, the fundamental requirement for making an application was absent. 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. The first respondent did not deny the fact that the Chhajju Singh did own a house in the year 1969. That apparently is the reason why he did not apply under the scheme. Nearly a decade after his death, an application was made by one of his sons. But what is to be considered is the position of the land loser on the date of the award. Therefore the appellant, who is one of the grand sons of Chhajju Singh is not entitled to seek

allotment of a plot under the scheme by suppressing the fact that Chhju Singh owned a house in 1969.”

This proposition of law as laid down by the Apex court clearly shows that where the land of the party is acquired in its complete entirety i.e. the complete land can be considered for allotment an alternate plot this is not otherwise. The whole object of this policy which has been framed firstly in the year 1961 which was followed subsequent by the policy framed in the year 1964 was to provide succour to those persons who are completely landless or not having any house to live in; it would be for those persons whose land in complete entirety has been acquired and as such not having any shelter. In the instant case the facts are admitted. It is clear from the affidavit filed by the petitioner (page 232 of the paper book). In this affidavit, the petitioner has clearly stated that out of 6 bighas 12 biswas 1 bigha and 2 biswas of land is left with him and only the balance has been acquired. It has been noted in the affidavit that he has built a residential house in the land where he is presently living. This is the admitted position that the letter of the Department rejecting the claim of the petitioner for allotment of alternative plot in terms of the policy and the judgment of the Apex Court (supra) suffers from no infirmity.

Petition is without any merit.

Dismissed.

INDERMEET KAUR, J

JULY 29, 2016/ndn