

\$~7

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 3507/2013

KASHMIR SINGH

..... Petitioner

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

versus

LAND & BUILDING DEPARTMENT & ANOTHER

..... Respondents

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

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

%

08.09.2016

The petitioner before this Court is one Kashmir Singh. He is the son of Shanker Singh. His claim seeking allotment of an alternate plot had been considered by the Department and vide communication dated 11.04.2013, he had been allotted a plot measuring 80 square yards. This allotment was made to Kashmir Singh in lieu of his acquired land which was 3 bigha and 7 biswas in Khasra Nos. 536 & 537. This letter clearly mentions this.

The grievance of the petitioner is that the father of the petitioner namely Shankar Singh had another area of 3 bigha and 7 biswas in the aforementioned village. This land i.e. 3 bigha and 7 biswas

of land in Khasra No. 415 was acquired vide Award No. 2/1990-91. An application for allotment of an alternate plot was filed by Shankar Singh (father of the petitioner) during his lifetime. In 1992, acquisition of the land i.e. share of Kashmir Singh (present petitioner) which was 3 bigha and 7 biswas was also acquired. There is no dispute to this. The possession of this land was taken over. Compensation was received by the petitioner for the acquisition of his land in the year 1994 which was a payment of Rs.4,77,770/-. This land also measured 3 bigha and 7 biswas. It was comprised in khasra Nos. 536 & 537. The land of the father of the petitioner was comprised in Khasra No. 415. The father of the petitioner had thereafter died. Submission is that, the share of the land of the father of the petitioner had fallen to the share of the petitioner. This is also not disputed. The grievance of the petitioner is that the application of his father seeking allotment of an alternate plot (of the year 1992) and the application of the present petitioner seeking allotment of an alternate plot (of the year 1994) were considered simultaneously; the Land & Building Department had considered only the application of the father of the petitioner (evident from the letter number) but noting that 3 bigha and 7 biswas of land of the petitioner (Kashmir Singh) had been acquired, he was entitled to an alternate allotment of 80 square yards. Contention of the petitioner is that the Recommending Authority while considering the application of the father of the petitioner had passed an order qua his acquisition but did not consider that an additional 3 bigha and 7 biswas of land of his father had also been acquired for which an allotment had also to be made to the

petitioner; submission being that as per the Policy, he would have been entitled to 150 square yards and not 80 square yards as has been noted by the Recommending Authority.

This position has been disputed by the learned counsel for the respondent. He has drawn attention of this Court to his counter affidavit. Submission is that the land of Shanker Singh had been acquired and compensation had been paid to him on 27.09.1991. This application was not filed within time. At that point of time, the limitation for filing an application seeking allotment of an alternate plot was three months. This application had been filed after that time. Further averments in the counter affidavit show that although both the cases i.e. the case of the petitioner Kashmir Singh and that of his father Shankar Singh were placed together before the Recommending Authority and they were considered together; the recommendation of the Department to allot 80 square yards of land to the petitioner (qua his own allotment of 3 bigha and 7 biswas) does not suffer from any infirmity as the Policy of the Department did not envisage any unjust enrichment to the parties. Moreover the land held by the father and that held by the petitioner fell into two different khasras and there were two different applications pursuant to which two different Awards were passed qua the acquisition.

This Court notes this submission of the respondent. The most relevant fact is that the land of the father of the petitioner Shankar Singh was acquired vide a Notification pursuant to which compensation had been received by him on 27.09.1991. He had not filed his application within the period of three months which was the

period at that point of time for filing an application seeking allotment of an alternate plot. That apart the land of the father of the petitioner fell in khasra No. 415. The land of the present petitioner falls in two different khasras i.e. 2 bigha and 8 biswas fell in khasra No. 536 and the remaining 19 biswas falls in khasra No. 537. Once the application of the petitioner had been adjudicated and the Recommending Authority had noted that he is entitled to allotment of 80 square yards of land, the question of consideration of his second application would not arise as apart from the fact that the Policy seeking allotment of alternate plots is silent on the aspect as to whether two parcels of land in two different khasras can be joined / clubbed together to seek allotment of a bigger portion of land, this Court also notes that there were two different dates on which two different parcels of land in two different khasras vide two distinct Awards had been acquired.

The land of the father of the petitioner was acquired in 1992. The land of the petitioner was acquired in 1994 for which he had received compensation in that year. His application was put up along with his father's application but the Policy of the Government seeking allotment of an alternate plot (on its perusal) did not in any manner justify the case of the petitioner that the land in two different khasras could be clubbed together to enable the petitioner to obtain a larger plot of land; the Policy is not suggestive of such a clubbing. The petitioner is also not able to point out any such point in the Policy which could persuade the Court to hold otherwise.

In this background, the communication of the Department holding the petitioner was entitled for 80 square yards of land suffers

from no infirmity.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 08, 2016

A