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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 3272/2014**  
**BANWARI & ANR.**

..... Petitioners

Through Mr. B.S. Maan, Mr. Satyanam Rathi  
and Mr. Paritosh Tomar, Advs.

versus

**GOVT. OF NCT OF DELHI**

..... Respondent

Through Mr. B. Mahapatra, Adv.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

% **25.07.2016**

The petitioner is aggrieved by the letter dated 28.02.2014 vide which his application seeking allotment of an alternate plot had been rejected on the ground that he still had some unacquired land. The judgment of "*Delhi Administration Vs. Jai Singh Kanwar*" passed by the Apex Court in C.A. No.8289/2010 decided on 14.09.2011 was held to be applicable in the instant case.

The petitioners are stated to be the recorded bhumidars/co-owners to the extent of half share of 43 bighas and 5 biswas out of 36 bighas and 16 biswas situated in Revenue estate of Village Bharghal, New Delhi stood acquired. This acquisition was vide Award No.26/2002-03. Possession of the land was transferred to the government department on 14.08.2002. Compensation in lieu of the land acquired was paid to both the petitioners on 28.11.2002. The land was also acquired on the said date. On 16.04.2002, both the petitioners submitted appropriate applications seeking allotment of an alternate plot. On 13.06.2008, the petitioners had executed a sale

deed in respect of 4 bighas and 16 biswas of land in favour of one Vinod Rajoria. Contention is that since large part of the land of the petitioner already stood acquired, he was entitled to an alternate plot. His submission is that the judgment Jai Singh Kanwar would not be applicable. Learned counsel for the petitioners in support of his submission has also placed reliance upon the judgment passed by a Bench of this Court in W.P. (C) No.540/2015 titled Mohd. Swaleheen (deceased) thr. LR MS. Fahmida Anjum Vs. Govt of NCT of Delhi.

This position has been disputed by the learned counsel for the respondent. His submission is that in view of the clear ratio of the judgment of Jai Singh Kanwar and particularly para 6 of the aforementioned judgment, the case of the petitioner must fall flat. Impugned order suffers from no infirmity.

Relevant would it be to extract para 6 of the aforementioned judgment which reads 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 Chhajju Singh owned a house in 1969.”*

The ratio of the aforementioned judgment is clear. It clearly states that it is only when the land of the petitioner in its entirety that an application for an alternate plot is to be considered. It clearly stipulates that the object of the Scheme of allotment is that when the land owned by a person is taken away in its entirety i.e. as a complete whole and he is left without any house or plot, he should be considered for an alternate plot. Admittedly in this case out of 43 bighas and 5 biswas, 36 bighas and 16 biswas were alone acquired. There were remaining 6- ½ bighas. Even as per the case of the petitioner 4 bighas and 16 biswas of this land had been sold by him in 2008. He had sold this land which had remained with him for a commercial purpose. This was vide registered sale deed dated 13.06.2008. Even then there was some remainder which was left with him. That apart, this Court notes that it is the case of the petitioner himself that his entire land has not been acquired and 4 bighas and 16 biswas still with both the petitioners, the question of the allotment of an alternate plot in his favour did not arise and this was clear in view of the ratio of the judgment of Jai Singh Kanwar. The judgment relied upon by the learned counsel for the petitioners of a Bench of

this Court in Mohd. Swaleheen is wholly inapplicable to the case of the petitioner. In that case, there were four parcels of land which were acquired by four different awards and recording by the Revenue Authorities dated 19.11.2014 was clearly an incorrect factual finding; what was left with the petitioner in that case was only 16 bighas. On that ground, the case of the petitioner was required to be reconsidered. Factual position being different, that judgment would not come to the aid of the petitioners.

Petition is without any merit. Dismissed.

**INDERMEET KAUR, J**

**JULY 25, 2016**

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