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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5628/2015

JAGDISH

..... Petitioner

Through Mr.R.B.Singh, Ms.Tanika Jaswal, mr.
Harsh Kumar, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through Mr.Siddharth Panda, Advocate for
R-1.
Mr.Arjun Pant, Advocate for
R-2/DDA.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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19.09.2016

Petitioner is aggrieved by the letter dated 06.9.2013 vide which his application seeking allotment of an alternate plot has been rejected. It was pointed out the petitioner still has land left with him. Since his entire land has not been acquired his case could not be considered.

Counter affidavit has been filed by the respondents. Learned counsel for the respondent submits that the rejection was made for the reason that the petitioner still had land left with him and in view of the ratio of the judgment of the Apex Court in CA No.8289/2010 titled Delhi Administration Vs. Jai Singh Kanwar, since the entire land of the petitioner had not been acquired and land still remained

with the petitioner, his case could not be considered for the allotment of an alternate plot.

Arguments have been heard. Record has been perused.

Record shows that the petitioner had land in Village Nangli Razapur which has been acquired vide Award dated 19.6.1992. Compensation amount had been received according to the share of the petitioner on 28.11.1994 and thereafter on 22.8.1995. He had applied for an alternate plot in the year 1996. Submission is that some of the relatives of the petitioner had already been granted an alternate plot but the case of the petitioner which was placed before the Recommending Committee. The Recommendation Committee on 26.07.2013 had rejected his case on the ground that his entire land had not been acquired. The Recommending Committee had noted that out of 1749.02 bigha in which the petitioner had a share 881.04 bigha had been acquired and the balance had not been acquired and as such his case could not be considered for alternate plot. The ratio of the judgment in CA No.8289/2010 titled *Delhi Administration vs. Jai Singh Kanwar* (delivered by the Apex Court on 14.09.2011) was applied.

The contention of the petitioner is that although admittedly the petitioner had a share in the total land having 1749.02 bigha of which only 881.04 bigha had been acquired but since the other similarly situated persons (details find mention in para 14 of the petition) have been granted alternate plots, the petitioner's case has been discriminated upon and there is no reason for the same.

Additional submission being that the judgment of Jai Singh

Kanwar would not apply to the instant case as the facts of that case were different.

This argument has been refuted. On the first submission of the learned counsel for the petitioner that similarly situated persons namely Ajeet Singh and others had been granted alternate plots, the submission of the respondent is that even presuming that other similarly situated persons had been granted an alternate plot that would be prior to the ratio of the judgment pronounced by the Apex Court on 14.09.2011.

Learned counsel for the petitioner does not dispute this submission of the respondent. Her submission is that the relatives of the petitioner who had been granted alternate plots were admittedly granted these alternate plots prior to the judgment dated 14.09.2011. Record of the case of Satish Kumar, Raj Kumar, Mohan Singh Chauhan, Jai Pal, Mohan Singh Chauhan, Ajeet Singh and Anil Kumar shows that they had been considered for alternate plot prior in time to the judgment of Jai Singh Kanwar which was delivered on 14.09.2011. Para 6 of the said judgment had noted:

“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.”

This ratio clearly states that it is only when the land of a person has been acquired in its entirety, can he be considered for residential plot. A perusal of this judgment of Jai Singh Kanwar fortifies this Court to

hold that it is only if the land of a party is acquired in its entirety and he has no roof or home under which he can take shelter, can his case be considered for allotment of an alternate plot and not otherwise. Admittedly in this case out of 1749.02 bigha of land in which the petitioner had a share only 881.04 bigha had been acquired. It is thus clear that the entire land of the petitioner not having been acquired, the question of him being considered for an alternate plot would not arise. It is not as if that the petitioner had been left homeless. It could not be imagined that in all this period of time i.e. from the year 1992, the petitioner has no roof or shelter.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 19, 2016

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