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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5797/2015**
TARA CHAND

..... Petitioner

Through Mr. Arun Kumar Kaushik and Mr.
Tonika Jaswal, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate
Mr. Mayank Mikhail Mukherjee,
Advocate for Mr. Arjun Pant,
Advocate

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **26.08.2016**

The petitioner is aggrieved by the order dated 28.03.2014 wherein the Recommending Committee of the Land and Building Department had rejected his prayer for allotment of an alternate plot. This had been communicated to him vide letter dated 25.04.2014. This letter states that since the land was still available with the petitioner and out of 1749.02 bigha only 881.04 bigah had been acquired, in view of the ratio of the judgment of the Apex Court in CA No.8289/2010 titled Delhi Administration Vs. Jai Singh Kanwar delivered on 14.09.2011, he was not entitled to be considered for allotment of an alternate plot. This is the grievance of the petitioner. His submission is that this is factually incorrect. The contention of the petitioner is that although admittedly initially out of 1749.02 bigha, 881.04 had been acquired yet out of balance land also 115

bigha and 2 biswas was acquired on 12.02.2004 for which the petitioner had received compensation on 14.04.2014.

The counter affidavit filed by the respondent states that the letter of rejection suffers from no infirmity. 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 there still the land remained with the petitioner, his case could not be considered for the allotment of an alternate plot.

In the course of proceedings, an additional affidavit came to be filed by the petitioner. His submission in the additional affidavit is that although the initial award No. 16/92-93 of village Nangli Razapur was with respect to the entire land of the petitioner but thereafter since a part of the land i.e. 752 bigha and 16 biswas (out of 1749 bigha and 2 biswas) was denotified as submerged under water but now the entire 996 and 6 biswas of land has now been taken over by the subsequent award dated 12.02.2004; there is no land left with the petitioner.

Record shows that even as per the case of the petitioner, the petitioner had applied for allotment of an alternate plot on 08.11.1995. This is clearly averred in the writ petition as also in the list of dates. He had applied for the alternate plot in lieu of an Award which had been passed on 19.06.1992 which had admittedly acquired only 881.04 bigha of land out of 1749.04 bigha of land. Submission of the petitioner that the balance land stood acquired on 12.02.2004

obviously could not be considered in his application for allotment of an alternate plot which was filed on 08.11.1995 and was premised on the Award No. 19/92-93 which at the cost of repetition had acquired only a portion of the land of the petitioner i.e. 881.04 bigha out of 1749.02 bigha. The case of the father of the petitioner Mahipal Singh was placed before the Recommending Committee on 28.03.2014 and they had passed an order on the application No. F.32(58)/29/96/L&B/ALT (which was the application filed by the petitioner on 08.11.1995) and was premised on the Award No. 19/92-93. Apart from the fact that there is no record substantiating the submission of the petitioner that his balance land was also acquired in the year 2003-2004; the rejection letter was premised on his application dated 08.11.1995. This letter in this background suffers from no infirmity.

It is also not the case of the petitioner (alleged acquired balanced portion) that after 12.02.2004, he had made any application afresh for allotment of an alternate plot as up to 08.11.1995 (when he has filed his application for allotment of an alternate plot), his entire land had admittedly not been acquired.

In the case of Jai Singh Kanwar, the Apex Court had an occasion to deal with the policy for allotment of an alternate plot and the eligibility criteria has in fact been noted by the Apex Court in the first page itself. The following extract of the judgment of the Apex Court would be relevant and reads herein as under:-

“(a) he must have been recorded owner prior to issue of notification; (b) he must have received compensation as an original owner and (c)

he should not own a house/residential plot/flat in village Abadi in his name or in the name of his dependent and nor he should a member of any co-operative housing society”

Para 6 of the judgment of Jai Singh Kanwar is relevant. It reads herein as under:-

“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 judgment 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. Admittedly in this case out of 1749.02 bigha of land owned by the petitioner, 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 his making a statement that he did not have any residential house would not arise as he still had 868.13 bigha of land left with him. The question of him being considered for alternate plot would not arise. This is also in view of a judgment of the Division Bench of this Court reported as 192 (2012) Delhi Law Times 368 Govt of NCT of Delhi Vs. Jagdish Singh which had examined the object of the Policy and the relevant extract of the said judgment is reproduced herein as under:-

“We have to keep in mind that the purpose of the scheme for

allotment of alternate plot is to give succour for those persons whose lands were acquired and on this deprivation; they become homeless or need house in this city.”

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 26, 2016

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