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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4789/2014**
JAI SINGH

..... Petitioner
Through Mr. Abhijat and Mr. Pratyush
Sharma, Advocates

versus

GOVERNMENT OF NCT OF DELHI AND ANR

..... Respondents
Through Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for L & B Department
Mr. Shamim A. Khan, Advocate for
R-2

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **26.08.2016**

1 Petitioner is aggrieved by the rejection letter dated 03.07.2013 issued by the petitioner informing him that the Recommendation Committee in its meeting dated 15.05.2013 had considered the case of Shri Ram Chander (father of the petitioner) and since he had applied for an alternate plot only on 28.04.1989 (although his land stood acquired in 1963, 1976 and 1979 respectively) his application was time barred and as such could not be considered under the Amnesty Scheme available to the recorded owner; his application was accordingly rejected.

2 Petitioner is aggrieved by the afore noted finding.

3 Record shows that the petitioner Jai Singh is son of one Ram Chander. The land of Ram Chander was notified under Land Acquisition Act on 13.11.1959. The share of Ram Chander was 1/6th of the land admeasuring 7 bighas and 1 biswas comprised in Khasra no. 636 (0-18), 746 (1-0), 791 (2-3), 799 (3-0), a share of 1/24th of land admeasuring 7 bighas and 9 biswas comprised in khasra nos. 2057/994/2 (2-17), 2058/1044 (1-7), 2059/1044(3-5) and 1/16th share of land admeasuring 5 bighas and 17 biswas comprised in khasra nos. 1014 (2-19), 1012 (1-18), 1807/876 (1-0) forming a part of Village Naraina, New Delhi.

4 Record further shows that on 05.11.1962 award no. 1414/62-63 was passed and a part of the afore noted land. This land stood acquired and possession of the same was taken by the Government on 24.01.1962. Another portion of the land of the petitioner stood acquired vide award no. 19/75-76 dated 09.01.1976 of which physical possession was taken over on 11.02.1976.

5 Compensation was received by Ram Chander during his life time on 23.01.1963 and 20.07.1976. Since there was a dispute regarding apportionment of the amount of compensation it was finally decided by the Court of Additional District Judge on 30.04.1976. Ram Chander died on 09.11.1985.

6 Contention of the petitioner is that by a public notice of the year 1989 the dead line for receiving applications for allotment of alternate plot was extended up to 30.04.1989. This scheme was applicable to

all persons including the petitioner although he was a legal representative of deceased Ram Chander. Petitioner applied for allotment of alternate plot on 28.04.1989 i.e. before the dead line which was to expire on 01.05.1989. The application of the petitioner was in time. His application was however rejected by the impugned rejection letter dated 03.07.2013 after more than 20 years without considering the case of the petitioner in the correct perspective.

7 Learned counsel for the petitioner has place reliance upon a judgment of the Coordinate Bench of this Court reported as **WPC (C) 5364/2013 Sri Niwas Vs. Government of NCT of Delhi & Anr.** decided on 12.05.2016 (admittedly that writ petition is yet pending and not yet disposed) wherein on prima facie finding the Bench of this Court was of the view that the stand of the Department that it was only the recorded owner who could apply under the Amnesty Scheme was not fair and reasonable and since the petitioner had applied before the cut of date i.e. 01.05.1989 (which is so in this case as well) the case of the son of the petitioner (in that case) should be considered. Submission of counsel for the petitioner is that this judgment should be applicable to the facts of the instant case as well. Learned counsel for the petitioner has also placed reliance on the judgment of this Court in **2016 (154) DRJ 103 [DB] titled Government of NCT of Delhi and Poonam Gupta & Ors** wherein the Division Bench of this Court was of the view that in a public notice even otherwise there is no time limit for inviting applications for allotment of alternate plot. Attention has been drawn to the public

notice issued by the Department which is of the year 1989 wherein the Amnesty Scheme for allotment of alternate plot was extended up to 30.04.1989. Contention being reiterated that since the case of the petitioner is within time as he had filed his application for allotment of alternate plot on 28.04.1989 ie. before the cut of date i.e. 01.05.1989, it could not be rejected merely for the reason that his father has not applied but his legal representative had applied for allotment of alternate plot. At this stage, learned counsel for the petitioner submits that the policy of the government (for allotment of alternate plot) envisages that the application by a legal representative has to be considered. For this proposition, he has drawn the attention of this Court to the objects of the scheme (page 61-65 of the paper book) which are reproduced as under:

“When the recorded owner of the land acquired dies before notification under Section 4 of the L.A. Act, allotment is to be made separately to all the legal heirs of the deceased according to their shares recognized by the LAC, but if he dies after the notification under Section 4 of LA Act, all legal heirs are entitled to one plot of the size to which the deceased would have been entitled.”

8 Learned counsel for the petitioner has also drawn attention of this Court to another documents (part of the policy); the relevant extracts which has been highlighted by the counsel for the petitioner reads herein as

“If the applicant is not the recorded owner and is one of the legal heirs of the deceased recorded owner. “

9 Contention of the counsel for the petitioner being reiterated that the scheme clearly presupposes that the legal heirs of the recorded owner can apply for an alternate allotment and in those cases where the original owner has died after the notification had been issued under section 4 of the Land Acquisition Act, 1894 his legal representatives are entitled to one plot of the same size which the deceased was entitled in the instant case.

10 Submission being that this scheme clearly envisages that the case of the petitioner (who is legal representative of Ram Chander) has to be considered and even if his father had not applied for allotment of an alternate plot in his life time in view of the Public notice issued by the Department in the year 1989 and the case of the application of the petitioner admittedly being before the cut of date i.e. 01.05.1989 his case should have been considered by the Department.

11 A detailed counter affidavit has been filed by the respondent. Detailed submissions have also been addressed. In the affidavit of the Department it is stated that the rejection letter dated 03.07.2013 does not suffer from any infirmity. Additional submission is that this scheme of 1961 was not an open ended scheme for which applicants could apply at any point of time at their choice. Submission is that the public notice which had been issued by the Department was only for the benefit of a recorded owner and the date of 01.05.1989 which had been extended would at the cost of repetition be applicable only to

recorded owner i.e. for the original owner and not for the legal heirs of the original owner. Relevant at this stage would be to reproduce the public notice which reads as under:

“ALLOTMENT OF ALTERNATIVE PLOTS IN LIEU OF ACQUIRED LAND UNDER THE SCHEME OF LARGE SCALE ACQUISITION DEVELOPMENT AND DISPOSAL OF LAND IN DELHI.

*Public is hereby informed that all persons in whose case acquisition proceedings have been finalised under the scheme of “Large Scale Acquisition Development and Disposal of Land in Delhi for planned Development of Delhi between **the period 16th November, 1963 and 31st December, 1988** (both dates inclusive) may apply in the prescribed form alongwith all requisite enclosures for recommendation of allotment of an alternative plot of land in lieu of the acquired land in accordance with the policy laid down in this behalf by Delhi Administration from time to time so that their application reaches the office of **the Secretary (L&B), D Block, Vikas Bhavan, I.P.Estate, New Delhi, latest by 30.04.1989.***

*Only those persons may apply who have not applied earlier for the said purpose. For the removal of doubts it is clarified that this scheme is applicable only to these persons who were **recorded owners of the acquired land at the time of notification under section 4 of the Land Acquisition Act.***

If a person himself or his wife / husband or any other dependent relations, including unmarried children is in possession of

a residence or a residential plot, full or part of it, either on leasehold or freehold in Delhi its urbanised areas, New Delhi or Delhi Cantt, such person is not eligible for an alternative plot under the scheme and accordingly he or she should not apply in response to this notice.

The prescribed application form is available free of cost from the Reception Counter of the Office of secretary (L &B), D Block, Vikas Bhavan, New Delhi and the same could be obtained during working hours between 10.00 AM to 5.00 PM.

Delhi Administration will not recommend allotment of an alternative plot in lieu of acquired land in case the application does not reach the office on or before 30.04.1989. No applications received after 30.04.1989 would be considered.”

12 The highlighted portion clearly clarifies that this scheme is applicable only to those persons who are recorded owners at the time of notification under section 4 of the said Act. This notice cannot be read otherwise but in the clear terms in which it is so stated. Admittedly Jai Singh was not the recorded owner of the acquired land when the notification had been issued by the Department under section 4 of the said Act. At the time when the notification was issued (24.01.1961) the land was owned by Ram Chander. This public notice was only for the benefit of those persons whose land having been acquired and they being recorded owners at the time when this acquisition was ordered and they not having applied, they had a chance to file an application for allotment of an alternate plot up to 30.04.1989. As rightly pointed out by counsel for the respondent, this

scheme was not an open ended scheme which would go on giving a chance to all legal heirs i.e. sons and grandsons of the original recorded owner to apply for allotment of an alternate plot up to an unlimited period of time.

13 The judgment relied up on by counsel for the petitioner in 5364/2013 (as noted supra) is only an interim direction and writ petition is not yet disposed of; it is still pending.

14 This Court is of the view that the public notice is clear in its language, there is no ambiguity; it speaks of time being extended only for a recorded owner and petitioner not being a recorded owner, he does not fit within the extended time up to 01.05.1989.

15 The observations of Division Bench of this Court in LPA 169/2014 titled **Shri Krishan Kumar Seherawat Vs. Govt of NCT of Delhi and Anr** decided on 05.02.2016 in this context clearly also states that the Amnesty Scheme permits only the recorded owners to make an application for allotment of alternate plot. The relevant portion has been reproduced herein under:

“10. On account of various reasons stated below. We see no merits in the present appeal. Firstly, the writ petition is completely silent about the locus of Sh. Umed Singh to make the application. The recorded owner of the required land was the grandfather of Sh. Umed Singh, i.e. Sh. Sita Ram. There are other legal heirs to the plot that was acquired. As to how, Sh. Umed Singh is entitled to meet the application of the allotment is not explained or stated. He is obviously not entitled to an alternative plot dehors the claim of the

other legal heirs of Shri Sita Ram the recorded owner.

11. Further, the facts also show that there is an obvious delay of 15 years in moving the application. The amnesty scheme/policy permits only the recorded owner to make an application for allotment of alternative plot. Moreover, the scheme only condoned the time period to apply for an alternative plot for the recorded owner upto 30.04.1989. the application of Sh.Umed Singh was filed even after this extended period. Hence on the face of it the application filed by the predecessor of the appellant was beyond permissible time.

12. Apart from the above, in our opinion, delay and laches in approaching this court is writ large on the face of the record. The land was acquired in 1972 while the application for alternative allotment was made on 1.1.1987. The present writ petition was filed in 2013 i.e. 26 years thereafter. The only explanation given for this delay is that Shri Umed Singh was following up with the department, but was told that the matter is under process. This explanation cannot be accepted. This is a clear case of unexplained case of delay and laches.

13. We see no reason to differ with the views taken by the learned Single Judge. The appeal is dismissed.”

16 Record establishes that the three portions of land of Ram Chander was acquired on three different dates i.e. 23.01.1963, 20.07.1976 30.04.1979. Ram Chander had died on 09.11.1985. Admittedly during his life time he never applied for allotment of alternate plot. His son Jai Singh had applied for it on 28.04.1989. Jai Singh is taking shelter under the public notice of 1989 which

extended the Amnesty Scheme till 01.05.1989 but at the cost of repetition this extension of time was only for a recorded owner and not for his legal representative. In this view of the matter, the rejection letter having been debarred the claim sought to be set up by the petitioner suffers from no infirmity.

17 That apart this Court notes the additional submission of the petitioner which is to the effect that petitioner had himself admitted that his entire land has not been acquired and he still had balance land lying with him. This position is correct. This stand of the petitioner finds mentioned in his letter dated 25.11.2014 (page 174 of the paper book) wherein he has stated as under:

“Respected Sir,

I am in receipt of your above mentioned letter in which you have sought some clarifications regarding Khasra No. 540(1-02), 567(4-15), 702(0-09), 1802/522(2-05), 2056/994 (1-09), 993, 2057/994/1(0-05), 590 (2-18). In this regard I submit that I have not got any record in support to the above mentioned Khasras at present, that is why neither I have applied for any alternative plot nor I will apply in future, though these Khasras belong to me. In the absence of the supporting documents I am helpless in applying for any alternative plot.(Affidavit enclosed).”

18 This letter of the petitioner was written by himself in response to certain clarifications which has been sought from him by the Department where the Department wanted to know whether his entire land stood acquired or not. This letter of the petitioner clearly

evidences that the petitioner was still having land in the afore noted Khasra numbers.

19 The judgment of the Apex Court in CA No.8289/2010 titled Delhi Administration Vs. Jai Singh Kanwar, would be wholly applicable to the situation in hand. Para 6 of the judgment 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.”

20 The ratio of the judgment clearly shows that the case of the petitioner can be considered for allotment of alternate land, if his entire land has been acquired and if the petitioner still has balance of land his case could not be considered. This would be against the object of the scheme. The object of the scheme for allotment of alternate plot has been subject matter of various judgments and had been adjudicated to hold that this scheme had been promulgating only to provide succour to those persons who have no shelter on their heads and their entire land stood acquired. The observations of Division Bench of this Court in Govt. of NCT of Delhi Versus Jagdish Singh 192 (2012) DLT 368 (DB) are relevant and are as under:

“7. 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

land was acquired and on this deprivation; they become homeless or need house in this city.”

21 These observations will be clearly applicable to the facts of the instant case. Petitioner case is without any merit.

22 Petition dismissed.

INDERMEET KAUR, J

AUGUST 26, 2016

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