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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3987/2016**
RAJPAL

..... Petitioner

Through Mr.Sunil Dahiya, Advocate.

versus

GNCT OF DELHI AND ANR

..... Respondents

Through Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advocates.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **24.08.2016**

Petitioner is aggrieved by the fact that his application for allotment of alternate plot has not been considered. His submission is that although he has not received any letter of rejection yet the recommendation of the Recommending Committee has considered his case (page 122 of the paper book) and had rejected it in view of the ratio of the judgment of the Supreme Court in Delhi Administration vs. Jai Singh Kanwar (CA No.8289 of 2010) since 2 bighas 3 biswas of land still remaining with the petitioner (Khasra No.567, Village Razapur Kalan). He was not entitled to be considered for an alternate plot.

The averments contained in the petition have been perused.

The averments in this petition disclose that on 22.08.2001 notification under Section 4 of the Land Acquisition Act was passed

qua 570 bighas and 15 biswas of land in village Razapur Kalan, Delhi which included a portion of the land (13 bishas and 14 biswas) of the petitioner. A subsequent notification dated 27.01.2003 under Section 4 of the said Act was again passed which had acquired another portion of his land; this was 52 bighas and 5 biswas. Submission of the petitioner is that although admittedly 2 bighas and 3 biswas was remained with him yet this appears to be that due to oversight this land has not been acquired. His further submission is that a personal hearing was also granted to him but since the Recommending Committee had noted that some portion of his land still remained unacquired they had recommended that he could not be considered for alternate plot and this was against the ratio of the judgment of the Apex Court delivered in Delhi Administration vs. Jai Singh Kanwar (CA No.8289 of 2010 decided on 14.9.2011).

Learned counsel for the petitioner candidly admits that 2 bighas and 3 biswas of land still remains with the petitioner. He is not going back on the same stand/statement. The petitioner is also present in person. A query has also been put to him whether 2 bighas and 3 biswas of land still remains with him; he admits the same; another query has also been put to him as to whether he has built a house in that land to which he has again answered in the affirmative.

Learned counsel for the petitioner at this stage, submits that an RTI inquiry had been filed by him which was answered on 11.01.2016 (page 115 of paper book) wherein the Department had answered that as per their record Khasra No.550 to 575 had been acquired. This answer does not state that the entire Khasra no.550-

575 has been acquired. Moreover, this argument that the entire land of the petitioner has been acquired is an argument which does not lie in the mouth of the petitioner (who is present in Court) as admittedly 2 bighas and 3 biswas of land still remains with him. This is in fact averred in the writ petition itself.

In this view of the matter, the submission of the learned counsel for the respondent is correct.

The ratio of judgment of the Apex Court in *Jai Singh Kanwar* (supra) is squarely applicable. It reads 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

Chhju Singh owned a house in 1969.”

The petitioner is not entitled to be considered for allotment of alternate plot.

Petition is without merit. Dismissed.

INDERMEET KAUR, J

AUGUST 24, 2016
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