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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 6467/2013

PARDEEP KUMAR

..... Petitioner

Through Mr.N.S.Dalal, Advocate.

versus

LAND & BUILDING DEPARTMENT & ANR.

..... Respondents

Through Ms.Manika Tripathy and
Mr.Ashutosh Kaishik, Advocates.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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14.09.2016

File taken up today as 13.9.2016 was declared holiday.

Petitioner is aggrieved by the rejection letter dated 08.8.2013 wherein his application seeking allotment of an alternate plot was rejected. It was stated that the award qua this land (Village Nangli Rajapur) was announced on 16.6.1992 for a total area 996 bighas and 6 biswas. 6 bighas and 4 biswas still remained un-acquired. Since the petitioner still had land with her which was evident from the Khatoni his case was rejected. Petitioner is aggrieved by this finding.

Courter affidavit has been filed by the respondent. It is submitted that total land admeasuring 996 bighas 6 biswas was acquired out of 1749 bighas; the petitioner had a 1/160th share. The application for allotment was submitted on 30.01.1996. The petitioner had not furnished all the requisite documents. The

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Recommending Committee considered the case of the petitioner on the basis of Khatoni i.e. the revenue record submitted by the application. As per the report received from the LAC (South) the entire land of the application was not acquired.

In the rejoinder filed by the petitioner it is stated that the judgment of the apex Court in CA No.8289/2010 titled Delhi Administration Vs. Jai Singh Kanwar (decided on 14.09.2011) would not be applicable. The land which had been left with the petitioner was in the Yamuna Belt which is a flood affected area and was of no use to the petitioner.

The letter of rejection noting that the petitioner had land left with him is not in dispute. The additional affidavit filed by the petitioner also admits that the land which had been left with the petitioner measured 4 bighas; his entire land was not acquired. His submission that the balance land falls in a flood affected area is no ground to qualify him under the Scheme. This Court is not in agreement with the submission of the petitioner. Admittedly, the entire land of the petitioner not having been acquired and he still having 4 bighas of land left, the judgment of Jai Singh Kanwar (supra) is fully applicable. The ratio of this judgment states that unless and until the land of a party is not acquired in its "entirety" the case of such a party cannot be considered for allotment of an alternate plot. Para 6 of the said judgment is relevant in this context and it reads 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."

Another argument canvassed by the learned counsel for the petitioner is that Clause 4 (Policy dated 02.5.1961) envisages that the applicant whose built up area in the acquired land is more than 20% and the possession of built up area has not been taken over by the government agency are not eligible for allotment of alternative plot. Clause 4 of the said scheme dated 02.5.1961 reads herein as under:

"4.The applicant whose built up area in the acquired land is more than 20% and the possession of built up area has not been taken over by the government agency are not eligible for allotment of alternative plot."

This argument which has been canvassed is in fact against the case of the petitioner.

The Award in the instant case was pronounced on 16.6.1992. The second policy of the year 1986 would be applicable and not the policy of 02.5.1961. Even otherwise the petitioner has not been able to advance any argument on Clause 4 the policy of 02.5.1961. He has nowhere in the writ petition averred anything on the aforementioned score. Although in Ground (xix) this has been mentioned but at the cost of repetition it is not applicable to the facts in hand; this clause speaks of an un-eligible criteria.

Rule 6 of the DDA (Disposal of Developed Nazul Land) Rules 1981 are also not applicable. They apply to "Nazul Land" as described in Section 2(i) of Delhi Development Authority (Disposal

of Developed Nazul Land Rites 1981). The case of the petitioner was being considered in terms of the welfare scheme which had been promulgated by the Delhi Government to rehabilitate agriculturists whose land has been acquired under the scheme titled as "Large Scale Acquisition, Development and Disposal of Land in Delhi", announced by the Government of India, Ministry of Home Affairs vide its letter dated 02.5.1961. It was not Nazul Land.

The last submission of the petitioner that his balance land being in an urban area would not be a ground for his disqualification is also an argument without merit. Whether this remaining land was in a urban area or not would not make a difference to the object of the policy which at the cost of repetition is a policy which has been notified by the Government to rehabilitate those persons whose agricultural land has been acquired in its entirety and to give succour /relief to such persons who had become completely homeless or landless. Petitioners do not fall in this category.

Rejection letter dated 08.8.2013 does not suffer from any infirmity. There is no merit in this petition. It is dismissed.

INDERMEET KAUR, J

SEPTEMBER 14, 2016

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