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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5702/2014 & C.M. No.14080/2014

HARI SINGH

..... Petitioner

Through Mr. Vikas Mehta, Mr. Rajat Sehgal and
Mr. Karandeep Khanna, Advocates.

versus

GOVT OF NCT OF DELHI & ORS.

..... Respondents

Through Ms. Deepika, Adv for GNCTD.
Mr. V.C. Jha and Mr. Jayendra,
Advocates for DDA.**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.

The petitioner is aggrieved by the communication dated 14.3.2014 vide which his application seeking allotment of an alternate plot in lieu of his acquired land had been rejected. The rejection letter had quoted the judgment of the Apex Court reported in Delhi Administration Vs. Jai Singh Kanwar decided on 14.09.2011 in C.A. No. 8289/2010 held that since the entire land of the petitioner had not been acquired, he was not entitled to allotment of an alternate plot.

Counter affidavit filed by respondent no.1 has supported this stand. Submission of learned counsel for respondent no.1 is that the Committee observed that as per the available record out of 78 bighas 11 biswas, 73 bighas and 12 biswas has been acquired. Therefore

remaining land is 4 bighas 19 biswas. Petitioner is the owner of $1/8^{\text{th}}$ share in the remaining land. Even in the said remaining land there is a plot on 3 bighas and 18 biswas land falling under the Khasra No.226. The agriculture land which is remained under Khasra No.6/26 is 9 biswas. Learned counsel for respondent no.1 submits that the ratio of the aforementioned judgment (Jai Singh Kanwar) would apply.

Record substantiates the submission made by learned counsel for respondent no.1. The petitioner has himself in his petition stated that he is the owner of $1/8^{\text{th}}$ share in 78 bighas and 11 biswas of land (in different khasras as mentioned in the petition) in revenue estate of Village Dhoolssiras, New Delhi; out of 78 bighas 11 biswas, 73 bighas 12 biswas of land has been acquired; the balance land left with him is 4 bighas 19 biswas. The Award in the instant case was pronounced post period 03.04.1986 i.e. on 24.10.2002. As per the Policy of 03.04.1986 (relied upon by the petitioner) where the land of a person which had been acquired was less than 1 bigha, he was not entitled to an alternate plot. On this count, learned counsel for the petitioner submits that admittedly the land left with the petitioner being less than 1 bigha, even in future he would not be entitled to the benefit of this Policy; presuming that this land is acquired at a later point of time. His additional submission is that the reading of the Policy even otherwise negatives this stand of the Department and for this purpose, attention has been drawn to Annexures A-1 and A-2 appended along with the said Policy.

This Court is not in agreement with this submission of the

learned counsel for the petitioner. Admittedly, there is a Policy and the petitioner in fact has at the very outset detailed his arguments in the backdrop of this Policy. This Policy clearly states that the Awards announced on or after 03.04.1986 where the land which has been acquired is less than 1 bigha, that person cannot be considered for allotment of an alternate plot. The land left with the petitioner is 4 bighas 19 biswas. His argument that in future if his land is acquired, he would again not get the benefit of this Policy is an argument which holds no water as admittedly there is a Policy. It is also not as if that the Policy is under challenge. This argument based on contingent factors has no merit.

Annexures A-1 and A-2 also do not support the submission of the petitioner (a specimen of the application form and the format of the affidavit which is to be annexed along with an application seeking an allotment). In fact this Court is at a loss to understand as to why these Annexures have been quoted.

The admitted fact is that the entire land of the petitioner had not been acquired. 4 bighas 19 biswas of land still remained unacquired. The judgment of Jai Singh Kanwar noted supra would be fully applicable.

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."

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The object of the Policy (whether old policy of the year 1961 or the new policy of the year 1986) was to provide succour to those persons who were left completely landless/homeless on the acquisition of the land; they did not have any house to live in. An alternate plot was envisaged for such persons whose land had been acquired in its complete entirety and they did not have any shelter. Those who had alternate covers i.e. roofs over their heads, were not entitled to an alternate plot.

The rejection letter in this background suffers from no infirmity. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 14, 2016

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