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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 7215/2016 & C.M. No.29723/2016
MOHAN LAL

..... Petitioner
Through Mr. Rajesh Gupta, Mr. Harpreet
Singh, Mr. P. Saran and Mr. R.S.
Dalal, Advs.

versus

GOVT. OF NCT OF DELHI & ANR

..... Respondents
Through Mr. Yeeshu Jain and Ms. Jyoti Gupta,
Advs for R-1.
Ms. Shobhna Takiar, Adv for the
DDA.
Ms. Shubhra Parashar and Mr. Anil
Dabas, Advs for R-3.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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17.08.2016

The petitioner is aggrieved by his letter of rejection which had rejected his plea for allotment of an alternate plot on 16.07.2016 on the ground that his entire land had not been acquired. This communication has been quoted in the writ petition itself. This communication itself shows that out of 57 bighas and 15 biswas of land belonging to the petitioner, only 48 bighas and 5 biswas had been acquired. Since the land had not been acquired in its entirety, by the application of the ratio of the judgment of the Apex Court delivered in Delhi Administration Vs. Jai Singh Kanwar in C.A. No.8289/2010 on 14.09.2011, the case of the petitioner stood rejected.

The petitioner is aggrieved by this finding. His submission is that the balance land which would be 9 bighas and 10 biswas also stood acquired/vested/sold with Gram Sabha and this sale was prior to the date of acquisition proceedings. Learned counsel for the petitioner has drawn attention of this Court to a payment certificate dated 11.02.2014 evidencing the fact that a further 8 bighas and 1 biswa of his land stood acquired under a Notification dated 27.01.2003. His second submission is that 13 biswas of land falling in khasra No. 26/25/1 also stood vested with the Gram Sabha and the ownership stood transferred from the petitioner namely Mohan Lal. To substantiate this submission, he has placed on record the nakal of the khatoni (at pages 14-15 of the paper book). His last submission is that the balance land of 16 biswas falling under khasra No. 26/23 (min) was sold by an agreement to sell dated 01.11.1989 and the said document has also been placed on record.

Per contra, learned counsel for the respondent submits that the petitioner has no case. There is no explanation as to why he has approached the Court after two years when admittedly the order rejecting his plea for alternate plot was passed in 2014. Her additional submission is that whether the land vests in the Gram Sabha has to be cross-verified and this document had not been supplied by the petitioner to the respondent. Her last submission is that the General Power of Attorney and the agreement to sell dated 01.11.1989 would not be a valid document of sale and this has been held by the Apex Court in Suraj Lamp & Industries (P) Ltd. Vs. State of Haryana and Anr in SLP (C) No.13917/2009 decided on

11.10.2011.

In rejoinder, learned counsel for the petitioner submits that this agreement to sell is dated 01.11.1989 and is prior to the acquisition proceedings; the ratio of the judgment in Suraj Lamp & Industries (P) Ltd. would not be applicable.

This Court deems it expedient that in view of this submission made by the learned counsel for the petitioner and his vehement submission is that his application had not been considered by the respondent in the correct perspective, it would be in the interest of justice that this writ petition itself be treated as representation to the Department and the Department will consider all these submissions as aforenoted and passed an order on merits as per law uninfluenced by any observation made by this Court within a period of three months and the same shall be intimated to the petitioner.

Petition disposed of.

INDERMEET KAUR, J

AUGUST 17, 2016

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