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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6233/2016 & C.M. No.25502/2016**
ISHWAR SINGH

..... Petitioner

Through Mr. Rajat Sehgal, Adv.

Versus

GOVT OF NCT OF DELHI AND ANR

..... Respondents

Through Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Adv for R-1.
Mr. Pawan Mathur, Adv. for the DDA

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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20.07.2016

The petitioner is aggrieved by the order dated 02.02.2016 vide which application seeking allotment of an alternate plot (in lieu of his acquired land) had been rejected. The rejection letter had noted that since the entire land of the petitioner had not been acquired, (some land remaining un-acquired i.e. 19 bighas and 19 biswas was still unacquired), in view of the judgment of the Supreme Court reported in "*Delhi Administration Vs. Jai Singh Kanwar*" in C.A. No.8289/2010 decided on 14.09.2011, the case of the applicant for an alternative plot was rejected.

The petitioner is aggrieved by this finding. His submission is

that the judgment of Jai Singh Kanwar (Supra) is not applicable to his case. The judgment of Jai Singh Kanwar was on the old policy which was existing since the year 1961 till 1986; the case of the petitioner is covered by new policy. Attention has been drawn to the aforementioned two policies. Submission is that in terms of the earlier policy, the conditions for allotment were contained in para 10 whereas in the new policy, the only embargo for allotment is that the allottee should not own a plot/residential house/flat out of the village abadi. Contention being that this position has in fact not been considered in the judgment of the Jai Singh Kanwar (Supra) and nor has this argument been addressed before any Court.

A specific query has been put to the learned counsel for the petitioner on this count which is to the effect that this submission which relates to conditions for allotment and which have been argued by the petitioner have no relation with the rejection letter which has rejected the prayer of the petitioner for an alternate plot for the reason that his entire land did not stand acquired, to his query the petitioner has no answer. His submission is that his prayer for the rejection of the alternate plot on the ground that his entire land was not acquired is not in terms of either the old policy or the new policy; additional submission being reiterated that the judgment of Jai Singh Kanwar would not be applicable.

These submissions have been countered by the learned counsel

for the respondent who has drawn attention of this Court to para 6 of the judgment of Jai Singh Kanwar which reads herein 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 Chhajju Singh owned a house in 1969.”

Admittedly in the instant case, the land of the petitioner which had fallen to his share was about 23 bighas and 1- 1/5 biswas; (he being 50% of the land owner along with his brother). It is also an admitted position that out of 23 bighas and 1- 1/5 biswas, 19 bighas

and 19 biswas was unacquired and thus approximately only 25% of his land was acquired.

Keeping in view the ratio of Jai Singh Kanwar (supra), it is clear that the object of the scheme for alternative allotment was to be governed by the consideration that only if the land of a person is taken away in toto and when he is left homeless i.e. without any house or plot, he should be allotted a plot where he can make a house. This was clearly the object of the scheme; whether it was old scheme or the new scheme, the object remained the same. Submission of the learned counsel for the petitioner that the conditions of allotment in the old scheme and the new scheme governed, do not speak of any such embargo is an argument without merit as these conditions which have been noted supra do not in any manner relate to the reason for the rejection of the prayer of the petitioner which was for the reasons that since his land was not taken away in entirety, he could not be considered for an alternative plot. This is completely in conformity with the ratio of the judgment of Jai Singh Kanwar (supra).

The submission of the petitioner that the judgment of Jai Singh Kanwar is not applicable as this was under the old policy is also an argument noted to be rejected. The conditions of allotment highlighted by the learned counsel for the petitioner qua the old policy and the new policy would make no difference to the reason for rejection for his plea for an alternate plot. The object of the policy whether it was old policy of the new policy remained the same.

The letter impugned before this Court rejecting the allotment of the petitioner for an alternate plot thus suffers from no infirmity.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 20, 2016

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