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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8058/2014

SATBIR & ANR.

..... Petitioners

Through Mr.Sudhir Naagar with Mr.Mohit
Singh, Advocates.

versus

GOVERNMENT OF NCT OF DELHI

..... Respondent

Through Ms.Deepika, Advocate for GNCTD.

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Date of Decision: 29th April, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed challenging the rejection of plea for alternative plot in lieu of land acquired. The relevant portion of the impugned order is reproduced hereinbelow:-

“Sub: Allotment of alternative plot in lieu of acquired land – reg.

Sir,

With reference to the above-mentioned subject, I am directed to inform you that your case for allotment of alternative plot in lieu of acquired land has been placed before the meeting of Recommendation Committee held on 30.04.2014 and it was observed that Shri Prabhu Dayal is the recorded owner in this case and he expired on 08.08.96 left behind his legal heir and all legal heirs have executed a relinquishment deed on 07.05.2013 in favour of Shri Satbir S/o Shri Prabhu Dayal. Shri Satbir executed vide his relinquishment deed dated 28.05.2013 in

*favour of Mahavir Singh S/o late Shri Gopal. Since he has already been relinquished his entire share for the acquired land, he is not entitled for any allotment of alternative plot as per policy, hence **REJECTED.***”

2. Learned counsel for the petitioner states that it was only on respondent's request that the relinquishment deed was executed by the petitioner no.1-Satbir in favour of petitioner no.2-Mahavir Singh. The relevant portion of the communication dated 4th April, 2013 written by the respondent to the petitioners is reproduced hereinbelow:-

“R.D (Relinquishment Deed) at point seven is required either from Sh.Satbir s/o Parbhu or Sh.Mahavir Singh s/o Sh. Gopal as Sh.Parbhu received owner died notification u/s 4.”

3. Today, learned counsel for the respondent states that the petitioner no.1-Satbir is not entitled to any alternative plot as he has executed a relinquishment deed in favour of petitioner no.2-Mahavir Singh. She also states that petitioner no.2 is not entitled to any alternative plot as neither he was a recorded owner nor the legal heir of Sh.Prabhu Dayal, the father petitioner no.1-Satbir.

4. However, the averment in the writ petition that all the legal heirs of Sh.Prabhu Dayal had executed a relinquishment deed in favour of petitioner no.1-Satbir is un rebutted. It is only thereafter that the petitioner no.1-Satbir had executed a relinquishment deed in favour of petitioner no.2-Mahavir Singh. Consequently, if petitioner no.2-Mahavir Singh had no antecedent title to the property in question and the relinquishment is bad in law, then the entire property would revert in petitioner no.1-Satbir. There is also no denying that without the relinquishment deed, petitioner no.1-Satbir is fully entitled to the alternative plot in lieu of the land acquired.

5. Learned counsel for petitioners states that petitioner no. 2 has no objection if plot is allotted in favour of petitioner no. 1.

6. Consequently, the present writ petition is allowed and the impugned order is set aside. The respondent is directed to issue an alternative plot to the petitioner no.1-Satbir subject to compliance of other formalities if any. Let the needful be done within a period of eight weeks.

7. Before parting with this case, this Court would like to place on record its dissatisfaction at the stand taken by the Land and Building Department inasmuch as it had rejected application of the petitioners for allotment of alternative plot on the ground that they had executed a relinquishment deed. This is despite the fact that relinquishment deed had been executed by the petitioners on the advice of Land and Building Department itself. Instrumentalities of the State are supposed to act fairly and reasonably. They cannot take 'convenient' stands. This Court hopes that the Land and Building Department would keep this advice in mind in future.

MANMOHAN, J

APRIL 29, 2016
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