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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 137/2013**

JAI BHAGWAN Petitioner
Through Mr.N.S.Dalal, Advocate.

Versus

LAND AND BUILDING DEPARTMENT AND ANR Respondents
Through Mr.Yeeshu Jain and Ms.Jyoti Tyagi,
Advocates.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **21.07.2016**

Petitioner is aggrieved by the communication dated 20.11.2012 sent to him by respondent no.1 wherein his application seeking prayer for an alternative plot has been rejected. Submission is that this communication is illegal and contrary to law as the judgment of DDA Vs. Jai Singh Tanwar delivered by the Supreme Court dated 14.9.2011 in Civil Appeal no.8290 of 2010 is not applicable to the facts of the instant case.

The facts of the instant case disclose that the petitioner Jai Bhagwan is the grandson of the erstwhile original owner i.e. Shri Chhotu. A portion of the land belonging to Chhotu was acquired vide a notification dated 24.10.1961; the award was came to be passed on 02.12.1967. The possession of a portion of the land was taken over

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in 1968. Further portion of the land of Chhotu Ram was acquired on 26.3.1969 and possession was taken over in 1980. Another portion of the land of Chhotu was acquired on 22.12.1980 and possession of this land was taken over on 29.12.1980. All these portions of land are forming a part of khasra no.45 measuring 6 bighas 10 biswas. Another portion of land of Chhotu i.e. 4 bigha and 1 biswa was also acquired vide Award No.90/80-81.

Shri Chhotu expired on 03.8.1984. An application for alternative plot was moved by Shiv Charan son of Chhotu on 20.10.1986. Public notices were given for inviting applications from persons who wished to apply for alternative plots. Further case of the petitioner is that on 20.11.2012 petitioner received a letter rejecting his plea for alternative plot.

Admittedly, it was not the petitioner who had applied for the alternative plot but it was his father Shiv Charan who had applied for the alternative plot.

In the counter affidavit filed by the respondent, contention of the respondent is that the land of grandfather of the petitioner has been acquired and complete possession of the same has also been taken over in 1980. Father of the petitioner even as per the case of the petitioner for the first time applied for an alternative plot i.e. after six years on 20.10.1986. The petitioner had in fact not even cared to find out the fate of this alternative plot. It was only when he received the letter dated 20.11.2012 that he came to know about the rejection

of his plea for allotment of alternative plot and he approached this Court.

This Court also notes that the land of Chhotu was acquired in 1980 and the possession of the same was taken over in the year 1980 itself. Chhotu expired in the year 1984 i.e. four years after the possession of his land had been taken over. In his lifetime he had admittedly not applied for an alternate plot. His son Shiv Sharan for the first time applied for an alternate plot on 20.10.1986; this application was not followed up by the petitioner. There was no application filed by the petitioner. The petitioner was informed of the rejection of this plea for an alternate plot in November, 2012 and he accordingly approached the Court thereafter.

Submission of the learned counsel for the respondent on this score is that the whole purpose of an alternative plot is to provide succour to those persons who are homeless and without housing accommodation. This scheme has been floated for this purpose only. If this purpose is allowed to be flouted and people apply for alternate accommodation/plot, six years later, the obvious presumption is that they have accommodation as in these six years they could not have been without a house or a home. They did have their home or house and as such they are not entitled to any alternate plot. Submission being that this appears to be a case where the allotment is sought for a commercial purpose i.e. to obtain the plot under the scheme and to sell it in the open market; this would defeat the object of the allotment

scheme.

This submission of the learned counsel for the respondent appears to be borne out from the record. Admittedly when the possession of the disputed land had been taken over in the year 1980 and Chhotu having died in the year 1984 and admittedly not having applied for an alternate plot in his lifetime which was a life of four years it can well be presumed that Chhotu did not require an alternate accommodation. It is also not the case of the petitioner that Chhotu was unaware of his rights. On 20.10.1986 Shiv Charan son of Chhotu Ram and father of the petitioner applied for an alternate plot i.e. six years after the date of the Award. The ratio of the judgment of the Supreme Court Jai Singh Kanwar (supra) fortifies the submission of the respondent that the petitioner did not require an alternate plot. This also become especially clear in view of the fact that there is also no averment by the petitioner that he made any efforts to follow up the application filed by his father. His only averment in this writ petition is that he learnt about the rejection of the application in 2012. Between 1986 and 2012 no action was taken by the petitioner also.

This Court is of the view that the purpose of grant of an alternate plot does not stand fulfil and thus the letter rejecting the prayer of the father of the petitioner for allotment of an alternate plot does not suffer from any infirmity. Thus it is a clear case where this Court would not be inclined to interfere with the order communicated by the respondent in its letter dated 20.11.2012 as the object and

purpose of the scheme of allotment of an alternative plot would be totally contravened if such like applications are entertained. The petitioner deserves no sympathy from the Court. Petition is dismissed.

INDERMEET KAUR, J

JULY 21, 2016/ndn

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