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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8952/2014**

VIJAY KUMAR AND ORS Petitioners
Through: Mr.Deepak R.Dahiya, Adv.

versus

GOVT. OF NCT DELHI Respondent
Through: Mr.Siddharth Panda, Adv. for L&B
Deptt.)

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **05.12.2016**

1. The challenge in this writ petition is to the communication dated 28th August, 2014 whereby the request of Sh. Thakur Dutt (who according to the petitioners, has since expired) for allotment of alternate plot was rejected.

2. It is the case of the petitioners (who represents themselves as the legal heirs of Late Shri Thakur Dutt) that on 15th November, 1996 a notification under sections 4 and 17(1) of the Land Acquisition Act was issued for acquisition of land measuring 940 Bigha 06 Biswa in Village Holambi Kalan. It is averred that Late Shri Thakur Dutt was paid an amount of Rs.25,87,557/- on 18th August, 1998. On 26th August, 1998, Late Shri Thakur Dutt applied for allotment of alternate plot as per the relevant scheme for those persons whose land has been acquired. It is contended that on 26th March, 2013, a letter was

addressed to Late Shri Thakur Dutt informing deficiencies in the application. A further letter was issued on 21st May, 2013 requiring him to submit certain documents by 1st June, 2013.

3. It is the case of the petitioners that petitioner no.1 on 31st May, 2013 visited the Land and Building Department and submitted the required documents as demanded by the respondent. A further letter was received on 22nd November, 2013 requiring Late Shri Thakur Dutt to submit payment certificate and proper indemnity bond in favour of President of India latest by 9th December, 2013. A stand has been taken that required documents were submitted. On 26th May, 2014, another letter was issued by the respondent to Late Shri Thakur Dutt calling upon him to submit an affidavit of not owning immovable property and the revenue record for the year prior to the notification of Section 4 of the Land Acquisition Act latest by 26th May, 2014. It is contended that on 21st August, 2014, the petitioner no.1 who had been pursuing with the Tehsildar of his village somehow managed to get the revenue record and submitted the same to the Land and Building Department. He sought some time to file the affidavit as per letter dated 26th May, 2014.

4. It is noted from the impugned letter that the application for allotment of alternate plot was placed before the Recommendation Committee meeting held on 9th July, 2014 and it was observed that the applicant vide letter dated 26th May, 2014 was asked to submit the requisite documents but no reply was received. Due to non submission of the requisite documents, the eligibility of the applicant

for allotment of alternate plot could not be ascertained and the same was rejected. The respondent filed reply and the stand is primarily summed up in para A and B at page 34, the same are reproduced as under:

“A. As per the record maintain in the department and the report of Land Acquisition Collector, the land bearing khasra no.43/8 (4-12), 9(1-14), 12(4-15), 19(4-14), 22(4-06), 68/2(3-07),9(3-0), 12(5-02), 19(4-16), 20(1-15) and 22(0-12) total 38-13 with ¼ share of village Holambi Kalan, Delhi of Sh.Thakur Dutt s/o Sh. Bishamber, which was acquired vide award no.22/97-98 dated 30/3/1998 for which notification was issued on 15/11/96 and compensation was paid to Sh.Thakur Dutt on 24/04/1998. The application for allotment of alternative plot was submitted by Sh.Thakur Dutt on 26/08/1998.

B. The case was considered by the committee on 09/07/2014 and it was observed that the applicant was asked to submit the requisite documents vide letter no.2863 dated 26.05.2014 but no reply has been received. Due to non-submission of the requisite documents, the eligibility of the applicant for allotment of the alternative plot cannot be ascertained, hence the case is rejected. It is pertinent to mention here that the applicant was supposed to submit the documents by 26.06.2014. It is incorrect to say that no time was allowed to the applicant for filing of the documents. Even for the sake of argument, it is accepted that no time was allowed, the applicant has not stated anything about this in its letter dated 21.08.2014. This clearly shows that the applicant was aware of the date and this ground has been taken for the first time in this petition. The petitioner could have clarified from the department had there been any doubt with regard to submission of the documents. However, the fact remains that the application was rejected on 09/07/2014 after giving more than two months time.”

5. During the course of submissions, it was contended by the

learned counsel for the petitioners that through letter dated 26th May, 2014, the respondents have sought for two documents but no time was given to Late Shri Thakur Dutt to submit the same. As it was clear that the date for submitting the documents was also mentioned as 26th May, 2014. In any case, it is also his submission that the documents as sought for i.e. affidavit in prescribed format for not owning the immovable property in Urban area of Delhi including Group Housing Society and revenue record for the year prior to issue of notification under section 4 have already been submitted by Late Shri Thakur Dutt. He states, in any case vide letter dated 21st August, 2014, the revenue record was submitted by the petitioner no.1. In so far as the affidavit was concerned, he has sought some time to submit the same. He also states the affidavit and documents evidencing the petitioners are the legal heirs of Late Shri Thakur Dutt, shall be submitted within 2 weeks. I may note here, that in Para 15 of the writ petition the following has been stated: -

“That in the meanwhile both the parents of the Petitioner expired within a time span of 5 days and as a result the petitioner was busy in performing the rituals and ceremonies of his deceased parents. On the receipt of the above stated letter the Petitioner approached the Respondent department seeking clarification of the same. However, he could not get any reasonable explanation as to why not even a single day’s time was given so that the documents could be deposited. The Petitioner was orally given assurance that his case is being looked into and that he should deposit the requisite documents at the earliest. On the assurance given by the Respondent department, the petitioner collected the requisite

document's and deposited the same with the Respondent department vide covering letter dated 21.08.2014. Vide the same letter the petitioner also informed the Respondent department that his mother and father had expired and he needed some more time to submit the documents along with the death certificate of his mother and father. The said letter dated 21.08.2014 is annexed as Annexure I to the present writ petition.

6. On the other hand, learned counsel for the respondent would concede that the application for allotment of alternate plot was made by Late Sh. Thakur Dutt. If the petitioners satisfies the authorities, they are the legal heirs of Late Sh. Thakur Dutt, the eligibility for allotment of alternate plot to the petitioners shall be considered. In this regard, he has also drawn my attention to page 16 of the documents, which is a letter dated 26th March, 2013, the points at serial Nos.5 and 6 relate to the submission of death certificate of recorded owner. The said statement is taken on record.

7. On merits, he justifies the impugned letter. It is his submission that as the decision was already taken by the Committee on 9th July, 2014, even though letter was sent on 21st August, 2014, the decision taken could not have been reversed.

8. Noting the aforesaid submissions made, as has been contended by the learned counsel for the petitioners, the petitioners shall furnish the affidavit and documents evidencing that they are the legal heirs of Late Sh. Thakur Dutt within two weeks, this Court is of the view, the submission made is reasonable and the fact no reasonable time was

granted by the respondents to Late Sh. Thakur Dutt to furnish the documents as the letter dated 26th May, 2014 itself depicts that the documents to be furnished on the same date i.e. 26th May, 2014, which was not possible and the stand of the respondents that as the decision was already taken on 9th July, 2014 which could not be reversed as unjustifiable and further the request of the petitioner no.1 on 21st August, 2014 for grant of some time, also as reasonable, as a last and final opportunity of two weeks time from the date of receipt of this order be granted to the petitioners to furnish all the documents as sought for in the letter dated 26th May, 2014 and also documents evidencing they are the legal heirs of Late Shri Thakur Dutt, the respondents on receipt thereof shall consider the case of the petitioners determining eligibility for allotment of alternate plot within six weeks thereafter.

9. The letter dated 28th August, 2014 is set aside. The writ petition is disposed of. No costs.

V. KAMESWAR RAO, J

DECEMBER 05, 2016

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