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

+ W.P.(C) 10168/2015

JAI PRAKASH CHAUHAN Petitioner

Through Ms. Geeta Mahrotra, Adv.

versus

GOVT. OF NCT OF DELHI Respondent

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **26.08.2016**

The petitioner is aggrieved by the fact that his prayer for alternate allotment of a plot had been rejected vide letter dated 02.05.2014.

The counter affidavit filed by the respondent states that the letter of rejection suffers from no infirmity. The rejection was made for the reason that the petitioner still had land left with him and in view of the ratio of the judgment of the Apex Court in CA No.8289/2010 titled Delhi Administration Vs. Jai Singh Kanwar, since the entire land of the petitioner had not been acquired and land still remained with the petitioner, his case could not be considered for the allotment of an alternate plot.

Arguments have been heard. Record has been perused.

Record shows that in the instant case, the land of the petitioner situated in Village Nangli, Razapur was acquired vide Award No. 16/92-93 dated 19.06.1992. The father of the petitioner had applied for an alternate plot during his lifetime in the year 1996. Submission is that some of the relatives of the petitioner had already been granted

an alternate plot but the case of the petitioner which was placed before the Recommending Committee on 02.05.2014 had rejected his case on the ground that his entire land had not been acquired. The Recommending Committee had noted that out of 1749.02 bigha owned by the petitioner, 881.04 bigha had been acquired and the balance had not been acquired and as such his case could not be considered for alternate plot. The ratio of the judgment of Jai Singh Kanwar (delivered by the Apex Court on 14.09.2011) was applied.

The contention of the petitioner is that although admittedly the petitioner owns 1749.02 bigha of which 881.04 bigha had been acquired but since the other cousins of the petitioner namely Satish Kumar and others (details given in para 10 of the petition) have been granted alternate plots, the petitioner's case has been discriminated upon and there is no reason for the same. The additional submission of the learned counsel for the petitioner is that the Policy of the Government clearly stipulated only three conditions. Attention has been drawn to the Policy formulated by the Government for allotment of an alternate plot. Submission is that the condition of eligibility entailed only three conditions which were (a) that he must have been recorded owner prior to issue of notification; (b) he must have received compensation as an original owner and (c) he should not own a house/residential plot/flat in village Abadi in his name or in the name of his dependent and nor he should be a member of any co-operative housing society. Submission of the petitioner is that he did not have any house or residential flat or plot in village Abadi or outside it. His case could not have been thrown out. Additional

submission being that the judgment of Jai Singh Kanwar would not apply to the instant case as the facts of that case were different.

This argument has been refuted. On the first submission of the learned counsel for the petitioner that his relatives namely one Ajeet Singh and others had been granted alternate plots, the submission of the respondent is that even presuming that any relative of the petitioner had been granted an alternate plot that would be prior to the ratio of the judgment pronounced by the Apex Court on 14.09.2011.

Learned counsel for the petitioner does not dispute this submission of the respondent. Her submission is that the relatives of the petitioner who had been granted alternate plots were admittedly granted these alternate plots prior to the judgment dated 14.09.2011.

Record of the case of Satish Kumar, Raj Kumar, Mohan Singh Chauhan, Ajeet Singh and Anil Kumar shows that they had been considered for alternate plot prior in time to the judgment of Jai Singh Kanwar which was on 14.09.2011. In the case of Jai Singh Kanwar, the Apex Court had an occasion to deal with the policy for allotment of alternate plots and the eligibility criteria had in fact been noted by the Apex Court in the first page itself. The following eligibility criteria was noted by the Apex ;Court as under:-

“(a)he must have been recorded owner prior to issue of notification; (b) he must have received compensation as an original owner and (c) he should not own a house/residential plot/flat in village Abadi in his name or in the name of his dependent and nor he should a member of any co-operative housing society”

This judgment in para 6 which reads herein as under:-

“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.”

clearly states that it is only when the land of a person has been acquired in its entirety, can he be considered for residential plot. A perusal of the judgment of Jai Singh Kanwar fortifies this Court to hold that it is only if the land of a party is acquired in its entirety and he has no roof or home under which he can take shelter, can his case be considered for allotment of an alternate plot and not otherwise. Admittedly in this case out of 1749.02 bigha of land owned by the petitioner, only 881.04 bigha had been acquired. It is thus clear that the entire land of the petitioner not having been acquired, the question of his making a statement that he did not have any residential house would not arise as he still had 868.13 bigha of land left with him. The question of him being considered for an alternate plot would thus not arise.

It is not as if that the petitioner had been left homeless. It could not be imagined that in all this period of time i.e. from the year 1992, the petitioner has no roof or shelter.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 26, 2016

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