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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11984/2015
PRADEEP KUMAR (SINCE DECEASED) THR LRS SANTOSH
..... Petitioner
Through Mr.Vikas Mehta, Mr.Rajat Sehgal and
Mr.Karandeep Khanna, Advocates.

versus

GOVT OF NCT OF DELHI & ANR
..... Respondents
Through Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Adv for L & B. Department.
Ms.Manika Tripathy Pandey and Mr.
Ashutosh Kaushik, Adv for DDA.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR
ORDER
% **14.09.2016**

File taken up today as 13.9.2016 was declared holiday.

The petitioner is aggrieved by the communication dated 29.04.2014 vide which his application seeking allotment of an alternate plot in lieu of his acquired land had been rejected. The rejection letter had quoted the judgment of the Apex Court reported in Delhi Administration Vs. Jai Singh Kanwar decided on 14.09.2011 in C.A. No. 8289/2010 held that since the entire land of the petitioner had not been acquired, he was not entitled to allotment of an alternate plot.

Counter affidavit filed by the respondent has supported this

stand. Submission is that the total land acquired in Village Dhoolsiras was 98 bigha and 15 biswas. 3 bigha and 10 biswas of land still remain unacquired. Since 95 bigha and 5 biswas was alone acquired (out of the total land of 98 bigha and 15 biswas) and 3 bigha and 10 biswas still remained unacquired, the ratio of the aforementioned judgment (*Jai Singh Kanwar*) would apply.

Record substantiates this submission. The petitioner has himself in his petition stated that the total land in village Dhoolsiras was 98 bigha and 15 biswas. 95 bigha and 5 biswas was acquired. The petitioner was owner to the extent of 1/4th share in this total area of land. Submission is that out of this 3 bigha and 10 biswas of land which was left with the petitioner was 17.5 biswas i.e. 875 square yards.

The Award in the instant case was pronounced on 24.10.2002. As per the Policy of 03.04.1986 (relied upon by the petitioner) where the land of a person which had been acquired was less than 1 bigha, he was not entitled to an alternate plot. On this count, learned counsel for the petitioner submits that admittedly the land left with the petitioner being less than 1 bigha, even in future he would not be entitled to the benefit of this Policy; presuming that this land is acquired at a later point of time. His additional submission is that the reading of the Policy even otherwise negatives this stand of the Department and for this purpose, attention has been drawn to Annexures A-1 and A-2 appended along with the said Policy.

This Court is not in agreement with this submission of the learned counsel for the petitioner. Admittedly, there is a Policy and

the petitioner in fact has at the very outset detailed his arguments in the backdrop of this Policy. This Policy clearly states that the Awards announced on or after 03.04.1986 where the land which has been acquired is less than 1 bigha, that person cannot be considered for allotment of an alternate plot. The land left with the petitioner is 17.5 biswas i.e. 875 square yards. His argument that in future if his land is acquired, he would again not get the benefit of this Policy is an argument which holds no water as admittedly there is a Policy. It is also not as if that the Policy is under challenge. This argument based on contingent factors has no merit.

Annexures A-1 and A-2 also do not support the submission of the petitioner (a specimen of the application form and the format of the affidavit which is to be annexed along with an application seeking an allotment). In fact this Court is at a loss to understand as to why these Annexures have been quoted.

The admitted fact is that the entire land of the petitioner had not been acquired. 3 bigha and 10 biswas of land still remained unacquired. The petitioner had 1/4th share in this land. The judgment of Jai Singh Kanwar noted supra would be fully applicable.

Para 6 of the judgment is relevant. It 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.”

The object of the Policy (whether old policy of the year 1961 or

the new policy of the year 1986) was to provide succour to those persons who were left completely landless/homeless on the acquisition of the land; they did not have any house to live in. An alternate plot was envisaged for such persons whose land had been acquired in its complete entirety and they did not have any shelter. Those who had alternate covers i.e. roofs over their heads, were not entitled to an alternate plot.

The rejection letter in this background suffers from no infirmity. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

SEPTEMBER 14, 2016

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