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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11989/2015

SUNIL KUMAR

..... 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,
Advts for L & B. Department.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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14.09.2016

File taken up today as 13.9.2016 was declared holiday.

The petitioner is aggrieved by the communication dated 11.02.2014 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 14.09.2015 in C.A. No. 8289/2010 holding that since the entire land of the petitioner had not been acquired, he was not entitled to allotment of an alternate plot.

Contention is that the judgment of Jai Singh Kanwar has been wrongly applied. The Scheme does not envisage a situation that until and unless the entire land of the party has been acquired, he is not

entitled to be considered for an alternate plot. Additional submission is that the alternate plots had been granted to other persons which is also discriminatory.

Counter affidavit filed by the respondent states that the respondent received a report from the LAC which indicated that in Village Dhoolsiras out of 76 bighas 12 biswas of land, only 70 bighas and 1 biswa of land has been acquired. The land (unacquired) left out is 6 bighas 11 biswas in which the petitioner had a $1/3^{\text{rd}}$ share. Thus the land of the petitioner not having been acquired in its entirety, 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 76 bighas and 12 biswas. 70 bighas and 1 biswas was acquired. The remaining land is 6 bighas 11 biswas. The petitioner was owner to the extent of $1/3^{\text{th}}$ share in this total area of land.

Second submission of the petitioner that a relative of the petition had been granted an alternate plot again does not come to the rescue of the petitioner as admittedly even if a plot was considered in favour of the relative of the petitioner, it was prior to the judgment of Jai Singh Kanwar pronounced on 14.09.2011. This submission is admitted and has not been controverted.

The admitted fact thus is that the entire land of the petitioner had not been acquired. The balance land left with the petitioner was 6 bighas 11 biswas (as per the Department). The petitioner had $1/3^{\text{rd}}$ share in this land. The judgment of Jai Singh Kanwar noted supra would be fully applicable.

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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.

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INDERMEET KAUR, J

SEPTEMBER 14, 2016

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