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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12205/2015**
MAHABIR

..... Petitioner

Through Mr. Vikas Mehta and Mr. Rajat
Sehgal, Advs.

versus

GOVT. OF NCT OF DELHI & ANR.

..... Respondents

Through Mr. Yeeshu Jain, standing counsel
with Ms. Jyoti Tyagi, Adv. for L & B.
Ms Manika Tripathy Pandey and Mr.
Ashutosh Kaushik, Advs. for R-2.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **22.07.2016**

The petitioner is aggrieved by the letter of rejection dated 28.04.2014 vide which his application seeking allotment of an alternate plot had been dismissed; the competent body had noted that in view of the judgment of the Apex Court in "*Delhi Administration Vs. Jai Singh Kanwar*" in C.A. No.8289/2010 decided on 14.09.2011, the case of the applicant for an alternate plot is not made out. In this rejection letter, it had been noted that the applicant has a share of 19 bighas and 10 biswas and the total land which had been acquired was only 4 bigahs and 14 biswas; since the whole land had not been acquired, his plea for an alternate plot had been rejected. The petitioner is aggrieved by this finding. His submission is that the judgment of Jai Singh Kanwar (Supra) has no application to his case.

Learned counsel for the respondents has disputed this submission. His submission is that para 6 of the judgment of Jai Singh Kanwar is clear and clearly fortified the stand of the respondents which is to the effect that unless and until the entire land of a party has been acquired, his application for an alternate plot cannot be entertained.

Arguments have been heard.

Para 6 of the judgment of Jai Singh Kanwar is relevant. It reads herein as under:-

“Neither the application nor the documents produced by the applicant Om Singh Kanwar averred or established that Chhajju Singh did not own a plot or flat or residential house and that he was not a member of any Co-operative Housing Society. In the circumstances, the fundamental requirement for making an application was absent. 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 first respondent did not deny the fact that the Chhajju Singh did own a house in the year 1969. That apparently is the reason why he did not apply under the scheme. Nearly a decade after his death, an application was made by one of his sons. But what is to be considered is the position of the land loser on the date of the award. Therefore the appellant, who is one of the grand sons of Chhajju Singh is not entitled to seek allotment of a plot under the scheme by suppressing the fact that

Chhju Singh owned a house in 1969.”

Admittedly in the instant case, the land of the petitioner is 19 bighas and 10 biswas. It is also admitted that 4 bighas and 14 biswas has been acquired. The balance had not been acquired. The judgment of Jai Singh Kanwar has addressed this aspect in the aforementioned paragraph. It clearly stipulates that the object of the Scheme of allotment is that when the land owned by a person is taken away in its entirety i.e. as a complete whole and he is left without any house or plot, he should be considered for an alternate plot. This scheme had come into play to give succour to those persons who are either without a home or a house. It definitely did not apply to those persons who owned some land.

In the instant case, the petitioner’s whole land had not been acquired. Around 15 bighas of land still remains with the petitioner. The rejection letter thus rejecting the plea of the petitioner for an alternate plot suffers from no infirmity. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 22, 2016

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