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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1137/2016 & C.M. No.4990/2016**
CHAND RAM

..... Petitioner

Through Mr. S. Chaturvedi, Adv.
versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Adv. for R-1.
Mr. Mukesh Kumar, Adv.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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12.07.2017

The petitioner is aggrieved by the letter dated 23.08.2013 wherein his application seeking allotment of an alternate plot had been rejected. It was noted that the entire land of the petitioner had not been acquired. 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, since the entire land of the petitioner had not been acquired, his case was not considered for allotment of an alternate plot.

Record shows that the petitioner was the owner and sole representative of Jai Lal. Jai Lal was the owner of land measuring 102 bigha and 6 biswas in agricultural land situated in the revenue estate of village Ghogha, Delhi; details of the khasra number find mention in the body of the petition. The father of the petitioner had applied for allotment of an alternate plot with the Government on 23.09.1999. This was in accordance with the scheme for allotment

proposed by the Government and in view of the fact that the land of the petitioner stood acquired vide Award No.5/1998-99 dated 07.12.1966.

The case of the respondent is that out of 102 bigha 6 biswas of land only 44 bigha and 14 biswas were acquired; there remained a balance of 57 bigha and 2 biswas with the predecessor in interest of the petitioner and therein with the petitioner. Thus in view of the judgment of the Jai Singh Kanwar (Supra), the case of the petitioner could not be considered.

In the judgment of Jai Singh Kanwar, the Apex Court while dealing with the similar contention had in para 6 noted 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 Chhajju Singh owned a house in 1969.”

Keeping in view the ratio of aforementioned judgment as also the object of the scheme for alternative allotment which was to allot land to persons whose land has been taken away in toto and he is left homeless i.e. without any house or plot; in such a situation he should be considered for allotment of an alternate plot where he can make a house. This being the object of the scheme and the petitioner not fulfilling this criteria as he has more than land left than what has been acquired as 57 bigha and 2 biswas admittedly still remained with the petitioner, the case of the petitioner was rightly rejected for an alternate plot.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 12, 2017

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