

\$~5

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 3139/2014

RAMDHARI

..... Petitioner

Through Mr. Jagat Singh and Ms. Apusna
Yadav, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr. Jaswinder Singh, Adv for R-1.
Mr. Siddharth Panda and Mr. P.
Venkatesan, Advs. for L & B.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **01.08.2017**

The petitioner is aggrieved by the order dated 17.10.2013 vide which his application seeking allotment of an alternate plot stood rejected. This order reads herein as under:-

“The case was considered by the Committee and it was observed that the applicant vide his application dated 17.05.2000 applied for allotment of alternative plot in lieu of his acquired land measuring 37-14 bigha. As per Revenue Record the applicant was having respective share in the land measuring 60-0 bigha whereas as per the LAC report, the land measuring 37-14 bigha of Kh. Nos.493, 494, 495 min, 496, 497, 498, 510 & 513 has been acquired. It is, therefore, evident that the land of the applicant has not been acquired in entirety and in view of the judgement dated 14.09.2011 of the Hon’ble Supreme Court in case titled “Delhi Administration vs. Jai Singh Kanwar” (CA No.8289 of 2010), the case of the applicant for allotment of alternative plot in lieu of the acquired land is REJECTED.”

The ratio of the law laid down by the Apex Court in Jai Singh Kanwar had been applied. Learned counsel for the petitioner submits that his case cannot be covered by the judgment of Jai Singh Kanwar as his application seeking allotment of an alternate plot was rejected on 03.08.2006. He had filed W.P. (C) No.7202/2007. The order dated 17.07.2009 had quashed this order dated 03.08.2007. The respondent had challenge this before the LPA Court vide LPA No.132/2010. The Division Bench had dismissed this LPA on 15.07.2010. The SLP against the said order was also dismissed on 06.07.2011. Further submission being that in the facts of the instant case, the principle of Jai Singh Kanwar would not be applicable. This Court is not in agreement with this submission of the learned counsel for the petitioner. Admittedly the judgment in Jai Singh Kanwar was delivered by the Apex Court on 14.09.2011. In terms of this judgment, the Apex Court had held that only those persons whose land has been acquired in its entirety would be entitled to an alternate plot; not those whose land still remains.

Relevant extract of para 6 of said judgment reads 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.”

This proposition of law as laid down by the Apex court clearly shows that where the land of the party has been acquired in its complete entirety i.e. the complete land; can he be considered for allotment an alternate plot and not otherwise. it would not be for those persons whose land in complete entirety has not been acquired (as is in the instant case) as the petitioner has still land measuring 22 bigha and 6 biswas and as such the land of the petitioner not having been acquired in entirety, the impugned order dated 17.10.2013 suffers from no infirmity.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 01, 2017

A