

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 08.09.2017/11.09.2017 & 12.09.2017

Pronounced on: 27.09.2017

+ **LPA 173/2017, C.M. APPL.10119/2017, 10120/2017, 10121/2017 & 10122/2017**

RANJEET SINGH

..... Appellant

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

+ **LPA 375/2017**

CHHANGA SINGH

..... Appellant

versus

GOVERNMENT OF NCT OF DELHI & ANR

..... Respondents

+ **LPA 790/2013, C.M. APPL.16742/2013**

BIR SINGH

..... Appellant

versus

LAND & BUILDING DEPARTMENT & ANR

..... Respondents

+ **LPA 650/2016**

JAGDISH

..... Appellant

versus

UNION OF INDIA & ORS

..... Respondents

+ **LPA 896/2013, C.M. APPL.18674/2013**

BHIM SINGH

..... Appellant

versus

LAND & BUILDING DEPARMENTS & ORS

..... Respondents

+ **LPA 73/2014, C.M. APPL.1542/2014 & 1543/2014**

JAGBIR SINGH

..... Appellant

versus

LAND & BUILDING DEPARMENT & ANR

..... Respondents

+ **LPA 74/2014, C.M. APPL.1544/2014**

SARDAR SINGH

..... Appellant

versus

LAND & BUILDING DEPARTMENT & ANR

..... Respondents

+ **LPA 500/2016, C.M. APPL.33048/2016 & 19265/2017**

BANWARI & ANR

..... Appellants

versus

	GOVT OF NCT OF DELHI	 Respondent
+	<u>LPA 501/2016</u> MAHABIR	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 504/2016</u> ISHWAR SINGH	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 505/2016</u> ARJUN SINGH	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 556/2016</u> SANDEEP RANA	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 558/2016</u> PRAVEEN KUMAR @ PRAVEEN RANA	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 562/2016</u> RISHI PAL	 Appellant
	versus GOVT OF INDIA & ORS	 Respondents
+	<u>LPA 575/2016</u> RAJINDER SINGH	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 576/2016</u> RATTAN SINGH	 Appellant
	versus GOVT OF NCT OF DELHI & ANR	 Respondents
+	<u>LPA 578/2016</u> PRADEEP KUMAR (SINCE DECEASED) THR LR SANTOSH	 Appellant

	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 579/2016</u>		
	SUKHVIR SINGH	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 580/2016, C.M. APPL.32818/2017 & 32819/2017</u>		
	SURAJ BHAN	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 581/2016</u>		
	MAHENDER SINGH	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 582/2016</u>		
	HUKUM CHAND	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 583/2016</u>		
	HARI SINGH	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 584/2016</u>		
	MAHENDER SINGH	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 590/2016</u>		
	ROHTAS SINGH (SINCE DECEASED) THR LRS	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 591/2016</u>		
	PYARE LAL (THR LRS)	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 609/2016</u>		
	ANITA	.....	Appellant

	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 610/2016</u> KRISHAN CHAND	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 611/2016</u> AZAD SINGH	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 612/2016</u> KISHAN CHAND (DECEASED) THR LRS	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 613/2016</u> KHAJAN SINGH (DECEASED) THR LRS	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 614/2016</u> RAJ SINGH	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 615/2016</u> JAI PAL	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 617/2016</u> RAJPAL	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 619/2016</u> RAJBIR	.....	Appellant
	versus		
	GOVERNMENT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 629/2016</u> JAI PRAKASH CHAUHAN	.....	Appellant

	versus		
	GOVT OF NCT OF DELHI	.....	Respondent
+	<u>LPA 631/2016</u>		
	BHOPAL SINGH	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI	.....	Respondent
+	<u>LPA 637/2016</u>		
	RAJINDER PARSAD	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI	.....	Respondent
+	<u>LPA 643/2016, C.M. APPL.42677/2016 & 42678/2016</u>		
	TARA CHAND	.....	Appellant
	versus		
	UNION OF INDIA & ORS	.....	Respondents
+	<u>LPA 660/2016</u>		
	ANIL KUMAR	.....	Appellant
	versus		
	DELHI DEVELOPMENT AUTHORITY & ANR	.....	Respondents
+	<u>LPA 664/2016</u>		
	ANIT CHAUHAN & ORS	.....	Appellants
	versus		
	UNION OF INDIA & ORS	.....	Respondents
+	<u>LPA 686/2016, C.M. APPL.45491/2016 & 45492/2016</u>		
	RAJPAL	.....	Appellant
	versus		
	GOVT OF NCT OF DELHI & ANR	.....	Respondents
+	<u>LPA 64/2017, C.M. APPL.3156/2017, 3157/2017 & 3158/2017</u>		
	JAIPAL SINGH	.....	Appellant
	versus		
	LAND & BUILDING DEPARTMENT	.....	Respondent
+	<u>LPA 446/2017</u>		
	JEET RAM & ANR	.....	Appellant
	versus		
	UOI & ORS	.....	Respondents
+	<u>LPA 447/2017</u>		
	JAGGI & ANR	.....	Appellants

- versus
- UOI & ANR Respondents
- + **LPA 448/2017**
SATPAL & ORS Appellants
- versus
- UNION OF INDIA & ORS Respondents
- + **LPA 460/2017, C.M. APPL.23998/2017**
DHANPAL & ANR Appellants
- versus
- UNION OF INDIA & ORS Respondents
- + **LPA 591/2017**
RAJ PAL Appellant
- versus
- GOVT. OF NCT OF DELHI Respondent
- + **LPA 81/2017, C.M. APPL.3762/2017**
SATYAVATI AND ORS. Appellants
- versus
- L&B DEPTT. AND ANR. Respondents
- Through : Sh. Govind Kant, for Sh. Anuj Saini, Advocate, for applicant, in Item No.2.
Sh. N.S. Dalal and Sh. Amit Dhankhar, Advocates, for petitioners, in Item Nos. 3, 6 and 14.
Sh. Sanjay Poddar, Sr. Advocate with Sh. Yeeshu Jain, Standing Counsel, Ms. Jyoti Tyagi and Sh. Govind Kumar, Advocates, for L&B in Item Nos. 1, 2, 3, 5 to 11, 15, 17, 18, 20 to 29, 31, 32, 34, 35, 37 to 46.
Sh. Biraja Mahapatra, Advocate, for L&B in Item Nos. 4, 12, 13, 16, 19, 30, 33 & 36.
Sh. Arun Kumar Pathak, Advocate, for petitioners, in Item Nos. 4, 38, 40, 43, 44 to 46.
Sh. B.S. Maan, Ms. Smita Maan, Sh. Vishal Maan, Sh. Paritosh Tomar, Sh. Satyawan Rathore, Sh. Naresh Maan and Sh. Aditya Singh, Advocates, for petitioners, in Item Nos. 8, 10 & 11.
Sh. V.P. Rana and Sh. Yogesh Saini, Advocate, for appellant, in Item Nos. 12 & 13.
Sh. Vikas Mehta and Sh. Rajat Sehgal, Advocates, for petitioners, in Item Nos. 15 to 34 and 9.
Sh. Nawal Kishore Jha, Advocate, for DDA, in Item Nos. 16, 18, 21 and 22.
Sh. I.S. Dahiya, Advocate, for petitioner, in Item Nos. 41 & 42.
Ms. Shobhana Takiar, Advocate, for DDA, in Item No.2.

Sh. Arun Birbal and Sh. Sanjay Singh, Advocates, for DDA, in Item Nos. 3, 4, 26 to 30, 33, 34 and 41.
 Sh. Manika Tripathy Pandey and Sh. Ashutosh Kaushik, Advocates, for DDA, in Item Nos. 9, 17, 32, 44 and 46.
 Sh. Pawan Mathur, Advocate, for DDA, in Item No.10
 Sh. Karan Sharma and Sh. Rohit, Advocates, in Item Nos. 11, 24, 31 and 39.
 Sh. Jitendra Kumar Tripathi with Ms. Vipul Agrawal and Sh. Anshuman Nayak, Advocate, for UOI, in Item No.14.
 Sh. Kush Sharma, Advocate, for DDA, in Item Nos. 15 and 20.
 Sh. Nawal Kishore Jha, Advocate, for DDA, in Item Nos. 16, 18, 21 and 22.
 Sh. M.K. Singh, Advocate, for DDA, in Item No.19.
 Sh. Kunal Sharma, Advocate, for DDA, in Item Nos. 25 & 26.
 Sh. Rajiv Bansal, Sr. Advocate with Sh. Kush Sharma, Ms. Vasudha Trivedi and Ms. Kanika Singhal, Advocates, for DDA, in Item No.31.
 Ms. Geeta Mehrotra, Advocate, in Item Nos. 35 to 37.
 Ms. Mrinalini Sen, Standing Counsel with Ms. Kritika Gupta, Advocate, for DDA, in Item Nos. 38 & 43.
 Sh. Sarat Chandra, Advocate, for Respondent No.4, in Item No.45.
 Sh. N.S. Dalal, Advocate, for petitioner, in Item No.47.
 Sh. Yeeshu Jain and Ms. Jyoti Tyagi, Advocates, for respondent in Item Nos.47 & 48.
 Sh. Rajat Sehgal, Advocate, for petitioner, in Item No.48.
 Sh. Arun Birbal and Sh. Sanjay Singh, Advocates, for respondents in Item No.48.
 Mohd. Shahid Azad, Md. Aslam and Sh. Ashutosh Rana, Advocates, for petitioner, in Item No.49.
 Sh. Kirtiman Singh, CGSC with Waize Ali Noor, Advocates, in Item No.49.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

MR. JUSTICE S. RAVINDRA BHAT

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1. These appeals have been preferred against different orders of

learned Single Judges. However, since common questions of law are involved, they were heard together. The Court would briefly discuss the facts in each appeal, in the judgment too. In the impugned orders, the learned Single Judges have interpreted and followed the decision of the Supreme Court in *Delhi Development Authority v Jai Singh Kanwar* (C.A. No.8289/2010, decided on 14.09.2011, hereafter the “*Jai Singh’s case*”). The Supreme Court had indicated the correct interpretation of the policy evolved for the allotment of alternative plots in Delhi, by the respondents (Govt. of NCT of Delhi) for the benefit of a category of land owners whose properties were subject to acquisition under the (now repealed) *Land Acquisition Act, 1894* (“the Act”). Each case was heard separately, though a common judgment is made.

2. The respondents (i.e., the Delhi Administration – succeeded to by the Govt. of NCT of Delhi) had, resorted to large-scale acquisition of lands, for the purpose of development of Delhi, through notifications between 1959-61. Later, to study the problem of devising measures to control land value and stabilizing the land prices in Delhi, the Central Government constituted a Committee, which submitted its report on 06.06.1959. The then Chief Commissioner, Delhi, too submitted a note to the Central Government in respect of acquisition, development and disposal of land in Delhi. The Central Government then framed a scheme titled “*Large Scale Acquisition, Development and Disposal of Land in Delhi, 1961*” [hereafter “the 1961 Scheme” or “the Scheme”]. Para 8 of the Scheme stipulated that as a general policy, disposal of developed land should be made by auction and the

premium should be determined by the highest bid “*except in the following cases where land may be allotted at pre-determined rates, viz., the cost of acquisition and development plus additional charges*”. The first category of the excepted category, which had to pay for alternative plots at pre-determined rates were:

(i) to individuals whose land has been acquired as a result of the Chief Commissioner’s notifications dated the 07.03.1957; 03.09.1957; 13.11.1959 and 10.11.1960 or other subsequent notifications provided that this concession will not be available in the case of individuals affected by the Notification dated the 07.03.1957 and September 1957 if the acquisition proceedings have been completed and payment made or deposited in Court by the 01.01.1961.

(a) If a residential plot is to be allotted, the size of such plot subject to the ceilings prescribed may be determined by the Chief Commissioner, taking into consideration the area and the value of the land acquired from the individual and the location and value of the plot to be allotted, and

(b) If an industrial plot is to be allotted, its size may be determined with reference to the requirement of the industry to be set-up, provided that the setting-up of industry is in accordance with the matter plan and the industrialist concerned has the capacity to establish and run such industry and provided further that the extent of land allotted at predetermined rates should not exceed the area acquired from the industrialist concerned. In making such allotment for industries, the

Chief Commissioner will be advised by an Advisory Committee to be nominated by him.

3. Clause 10 stipulated further conditions for allotment of alternative plots to individuals. These were:

(i) that the person being allotted the alternative plot should not own any other residential plot in Delhi,

(ii) that a building should be constructed thereon within two years of the allotment and thirdly that the plot cannot be transferred for a period of ten years from the date of allotment except with the permission of the Chief Commissioner.

4. The detailed provisions of the Scheme were set out in the letter dated 02.05.1961 of the Union Home Ministry, addressed to the Chief Commissioner, Delhi. The objective of the scheme was:

“OBJECTIVE OF THE SCHEME

The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure.”

The relevant extracts of the scheme, for ready reference (with modifications it underwent from time to time) are set out below. The eligibility conditions stipulated were as follows:

“WHO IS ELIGIBLE?

I. WHERE THE ACQUIRED LAND IS ANCESTRAL

1. The persons who are RECORDED OWNER prior to issue of notification u/s 4 of Land Acquisition Act.

2. *The persons whose lands have been acquired must have received the compensation ad rightful owners from the LAC/Court and the Govt has taken the possession of acquired land.*
3. *The applicants should not own a house /residential plot/flat out of village abadi in his /her dependent relation's name including unmarried children, nor he should be a member of any Co-operative Housing Society.*
4. *For awards announced prior to 3.4.86, the land acquired is not less than 150 sq.yards. and for awards announced post 3.4.86, the land must not be less than one bigha.*

II. CASES WHERE LAND PURCHASED THROUGHSALE DEED

The following conditions are also to be fulfilled in addition to above:-

1. *For awards announced before 3.4.86, land should have been purchased prior to issue of notification u/s4 of land Acquisition Act and mutation must have carried out in their names.*
2. *For awards announced post 3.4.1986 land must have been purchased 5 years earlier from the date of notification u/s 4 of Land Acquisition Act and mutation has been carried out in the name of the purchaser.*
3. *That where the land was purchased by an auction purchaser from the Ministry of Rehabilitation and the applicant had entered into a written agreement with the auction purchaser to buy the same, after the sale certificate was issued by the Ministry of Rehabilitation, his case would be processed for allotment on the basis of agreement and the compensation awarded by the L.A.C.*

III. OTHER CASES

When the recorded owner of the land acquired dies before notification u/s 4 of L.A. Act, allotment is to be made separately to all the legal heirs of the deceased,

according to their shares recognised by the I/AC, but if he dies after the notification u/s 4 of LA Act, all legal heirs are entitled to one plot of the size to which the deceased would have been entitled.

1. Where the land of an individual is situated in a colony to be regularised by the MCD and if his plot falls in the area, reserve for community facilities or for nonresidential purpose pending the acquisition of his plot; alternative plot can be allotted to him if he produces a certificate from the MCD confirming that in the revised lay out of the colony, his plot, is earmarked for a non-resident purpose and that if he gives an undertaking in writing that he would- not agitate the acquisition of his old plot and claims no additional plot in lieu thereof.

2. Where, as a result of clubbing of the shares of nearest blood relations, the area of the acquired land comes to 150 sq. yds. or more, allotment of one plot can be made in their joint names.

3. Where a property is owned by a firm not being a registered company, the allotment of land would be made to individual partners in accordance with their share defined in the partnership deed subject to their fulfilling the prescribed condition.

4. Where an individual entered into contract for purchase of plots from certain insurance companies (which were subsequently taken over from the (LAC), the affected person would be considered for allotment of alternative plot if:-

- Their deeds were registered before the crucial date i.e. u/s 4 Notification.*
- They had made full payment of the purchase price to the erstwhile company/LIC*
- They had made part payment, they would be considered for allotment, provided LIC certify that the balance was tendered was refused by the LIC due to acquisition of land.*

Where in a Hindu joint family, a large area has-been

purchased before the crucial date by a person for his own accommodation and that of his children, the title over the said land for the purpose of allotment of alternative land will be considered even on the basis of decrees obtained by his children from the Civil Court.

***PRESENT NORMS FOR RECOMMENDATION OF THE
SIZE OF PLOTS ARE AS UNDER:
FOR AWARDS ANNOUNCED BEFORE 3.4.1986***

- 1. Less than 150 sq.yards No plot*
- 2. Above 150 sq.yards to one bigha 40 sq. yards*
- 3. Above one bigha to ten bigha 250 sq. yards*
- 4. Above ten bigha 400 sq. yards*

FOR AWARDS ANNOUNCED ON OR AFTER 3.4.1986

- 1. Less than one bigha No plot*
- 2. One bigha 40 sq. yards*
- 3. Above One bigha to five bigha 80 sq. yards*
- 4. Above five bigha to ten bigha 150 sq. yards*
- 5. Above ten bigha 250sq. yards.”*

5. The scheme of allotment of alternative plots acquired a statutory character under the provisions of the *Delhi Development Act, 1957* (hereafter “DD Act”) read with the *Delhi Development Authority (Disposal of Nazul Land) Rules, 1981* (hereafter “Nazul Rules”). The lands acquired by the Central Government and placed at the disposal of the Delhi Development Authority (DDA), for development fell under the category of Nazul lands within the meaning of Section 21 of the *Delhi Development Act, 1957*. The Nazul Rules generally incorporated the conditions outlined in the 1961 Scheme. The

categories mentioned in Clause 8 of the 1961 Scheme were expanded under Rule 4 of the Nazul Rules.

6. In 1986, the Scheme underwent changes. The task of identifying plots for allotment was entrusted to the DDA although the clearance of an application for an alternative plot was the task of the Land and Buildings Department (L&B) of the Delhi Administration (subsequently the Government of the NCT of Delhi). The policy changes are relevant for the present case and are extracted below. On 03.04.1986, an Office Order was issued by the L&B Department of the Delhi Administration which reads as under:

*“Delhi Administration: Delhi Land And Building
Department Vikas Bhawan: New Delhi.*

*NO. F. 37(39)/1/82/LandB/Alt
3rd April 86*

Dated the

OFFICE ORDER

In supersession of all previous orders issued on the subject the Administrator, Delhi is pleased to order that following norms should be followed in respect of allotment of alternative plots in lieu of the land acquired for Planned Development of Delhi under the Scheme of Large Scale Acquisition, Development and Disposal of land in Delhi of the Govt. of India contained in their letter dated 2.5.1961.

1. In order to make the applicant eligible for allotment of alternative plot, the minimum land acquired for Planned Development of Delhi will be one bigha instead of 150 Sq. Yds.

2. In case the applicant has purchased the requisite land of 1 bigha he should have purchased the land 5 years earlier than the date of notification under Section 4 of the Land Acquisition Act in order to make him eligible for allotment of alternative plot.

3. Condition No. 2 will, however, not be applicable in respect of ancestral cases.

4. Maximum size of the plot will be restricted to 250 Sq. Yds. where land acquired is more than 10 bighas. Cases where land acquired is more than 5 bighas but up to 10 bighas plot size of 150 Sq. Yds will be recommended and in respect of the cases where the land acquired ranges between 1 bigha to 5 bighas the size of the plot to be recommended will be restricted to 80 Sq. Yds.

5. The plots will be allotted by DDA on pre-determined rates fixed by the Competent Authority from time-to-time. It is also clarified that these orders shall also apply to all pending applicants.

Sd/-

(P. Bhatnagar) Secretary (Land and Building)”

7. A copy of the order was marked to the DDA for necessary action because by this time the procedure that was followed was that the L&B Department first screened the applications to decide eligibility and entitlement and then recommended action to the DDA for allotment of the alternative plot. This letter was followed by an order dated 15.09.1986, which reads as under:

“Delhi Administration: Delhi Land And Building Department Vikas Bhawan: New Delhi.

No. F. 37(30)/1/82-LandB/Alt 8754

Dated: 15th Sep, 86

OFFICE ORDER

In partial modification of office order No. F.37(39)1/82-LandB/Alt dated 8.4.1986 regarding the eligibility and entitlement for recommencing the cases to DDA for the allotment of alternative plots in lieu of the acquired land for Planned Development of Delhi. It has now been decided that all applications covering the Awards announced before 3.4.1986. received/to be received in this regard, will be considered according to the norms being followed till the issue of the above mentioned office order dated 3.4.1986. However, the provisions of the Office Order dated 3.4.1986 will apply in respect of all applications received relating to the Awards announced on and after 3.4.1986.

All applications considered and rejected in pursuance of Office Order dated 3.4.1986 will, therefore, now be re-opened and considered suo-moto and such individual applicants informed accordingly.

Apart from the above, all such eligible applicants whose cases were recommended to DDA regarding the size of plots in accordance with the above mentioned office order, will also be revised suo-moto.

Sd/-

(N. Diwakar) Joint Secretary :Land and Bldg.)

8. By an order dated 30.01.1987, the Scheme underwent a further modification. This change was that even if possession of the entire land was not taken, the recommendation for allotment of alternative plots could be made, but it would have to be considered whether not

less than 80% of the total land for which the award has been announced should be taken possession of. The order of 30.01.1987 reads thus:

“Delhi Administration: Delhi Land and Building Department Vikas Bhawan: New Delhi.

NO. F. 37(39) 82-LandB/3703

Dated: the

30/1/1987.

Office Order It has been decided that henceforth, the recommendation for the allotment of alternative plots may be made even where the possession of the entire land acquired has not been taken by the concerned departments of the Government/agencies. But the Zonal Officers while scrutinizing such cases will take into consideration the possession of land to the extent of 80% and not lesser than 80% of total land for which award has been announced.

It has also been decided that the Harijans and other landless persons of the villages who were allotted agricultural land under 20 point programme of the Government may also be considered for the allotment of alternative plots even if they have been declared Bhumidar/owner of the land after notification Under Section 4 of the L.A. Act. While examining such cases the Zonal Officer concerned may examine all relevant factors including the orders passed by Sub-Divisional Magistrate/Revenue Asstt. by which Bhumidari rights were conferred upon the applicants Under Section 74 of the Delhi Land Reforms Act.

In both these cases mentioned above, other conditions of recommendations for the allotment of alternative plot, pertaining to determination of eligibility of size etc. will remain the same.

Sd/-

(G.S. Chaturvedi) Under Secretary (Alt. Allotment)

9. DDA issued a printed version of the alternative plot allotment scheme outlining eligibility criteria and the norms for the sizes of plots, the procedure to be followed etc. Significantly, a reference was made to the Scheme contained in the letter of the Government of India dated 02.05.1961. It also stated that the plots are allotted by the DDA on the recommendation of the Govt. of NCT in terms of policy prescribed by the latter. There was a stipulation that those eligible, in the case of acquisition of ancestral land had to be recorded owners before the issue of the Notification under Section 4 of the Act. There was a condition that such individuals should have received compensation as rightful owners and possession of such land should have been taken by the Govt. of NCT of Delhi. The disqualifying condition stipulated was that applicants should not own a house or residential plot in their own name or name of the near and dependent relations. For awards announced prior to 03.04.1986, the land acquired was to be not less than 150 sq. yards and for post 03.04.1986 awards, it was to be not less than 1 bigha. Under the sub-heading procedure followed by the Department, there were two columns for documents to be submitted. The first was in case of applicant being recorded owner at the time of Notification under Section 4 of the Act. The other column was if the applicant was not recorded owner, i.e. is one of the legal heirs of the deceased recorded owner. In the latter case, in addition to the documents required to be submitted by the applicants

belonging to the first category, certain other documents like death certificate, heirship certificate, relinquishment deed of other legal heirs and indemnity bond have to be submitted.

10. The claim of all these appellants before the learned Single Judge, in various writ petitions was that their lands had been acquired by different notifications. However, their applications for allotment of alternative plots, in terms of the policies of 1961 and the scheme formulated under it (as amended from time to time) were rejected. The learned Single Judge went by the judgment in *Jai Singh Kanwar (supra)*. In that decision, one Chhajju Singh was the owner of 24 bighas and 16 biswas of land in village Babarpur, Shahdara, Delhi. Those, and other lands were notified for acquisition in November, 1959. An award was made to the entire extent of 24 bighas 16 biswas of land on 24.11.1969. However, as the appellants were able to take possession of only 7 bighas and 1 biswa of land, compensation was disbursed in regard to that 7 bighas and 1 biswa of land to the land owner. The remaining area, acquired, was not taken possession of, as the area was built-up area; compensation too was not released. The Division Bench of this Court had allowed the petition. Upon appeal, by special leave, by the Delhi Development Authority and the Govt. of NCT of Delhi, the Supreme Court set aside the judgment.

11. The Supreme Court's reasoning is as follows, in its judgment (in *Jai Singh Kanwar*):

“5. We find that the High Court has not addressed the crucial and fundamental issue relating to eligibility. Under the Scheme, only a land loser who

did not own a house/residential plot/flat in his own name or in the name of his spouse or dependent relation, and who was not a member of any Co-operative Housing Society was entitled for allotment of plot. The relevant date for this purpose is the date of award, namely, 24.11.1969. Chhajju Singh did not make an application under the said Scheme even though he was alive till 1976. Among his six sons, only one son made an application on 4.12.1985 sixteen years after the award.

6. *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.*

7. *There is however one related matter which requires to be referred. The records show that acquisition notifications were issued in regard to 24 bighas 16 biswas of land belonging to Chhajju Singh and award was made in regard to 24 bighas 16 biswas*

of land, but possession was taken only in regard to 7 bighas and 1 biswas of land. Compensation was also paid only for 7 bighas and 1 biswas of land. It is alleged that after issuing the preliminary notification on 13.11.1959 followed by final notification, the Government did not take steps to safeguard the land from encroachment between 13.11.1959 and 24.11.1969 when the award was made; that the land owner could not take steps to prevent encroachments, in view of the acquisition notifications; and that as a result, the remaining acquired land was occupied by encroachers and ultimately the Government did not take possession of the land, nor paid compensation. It is contended that as the award was made for the entire extent, at least the compensation for the entire land acquired ought to have been released and the Government should have taken steps to secure possession regarding the remaining land. However that is not the subject matter of these appeals. All that can be said is that the decision in these appeals will not come in the way of the legal heirs of Chhajju Singh claiming compensation for the remaining extent if they are entitled to such compensation in accordance with law.”

12. In all these cases, the impugned orders rejected the appellant/petitioners’ contentions with respect to arbitrary consideration of their applications, for alternative plots, on the ground that they were not deprived of all lands owned by them and that they were consequently not entitled to claim allotment of alternative plots at pre-determined rates, under the scheme.

13. Ms. Smita Mann, who principally advanced the arguments in these appeals, submitted that the impugned orders wrongly interpreted and applied the Supreme Court’s decision in *Jai Singh Kanwar*

(*supra*) and provisions of the scheme. It is contended that the impugned orders are in ignorance of the said scheme governing the subject of allotment of alternative plot, and, therefore, erroneous. It is submitted that the question pertaining to eligibility or ineligibility i.e. disqualification of an applicant to alternative plot allotment has to be assessed and examined as per the provisions of the scheme/policy framed by the respondent authority on this subject, which is now statutory. The said scheme carves the following criteria for eligibility and disqualification for alternative allotment. *"Who is Eligible?"* outlines the ground of ineligibility, i.e. where the acquired land is ancestral the applicants *"should not own a house/residential plot/flat but of Village abadi in his/her dependent relation's name including unmarried children, nor he should be a member of any Co-operative Housing Society."*

14. Ms. Mann argues that the scheme was last amended by the respondents by office order dated 30.01.1987, which further provided that *"It has been decided that henceforth, the recommendation for the allotment of alternative plots may be made even where the possession of the entire land acquired has not been taken by the concerned departments of the Government/Agencies. But the Zonal Officer while scrutinizing such cases will take into consideration the possession of land to the extent of 80% and not lesser than 80% of total land for which award has been announced."* It is urged, therefore, that the scheme nowhere stipulates that an applicant is eligible for alternative plot allotment only if his land is acquired in entirety and he is left with no other land at all. Allowing the respondents to reject applications on

such interpretation, it is submitted, has resulted in imposition of a disability which was never formulated. The respondents, it is argued, are bound by the conditions of the scheme which they are obliged to follow and not, in the exercise of their powers, adopt interpretations that would negate its beneficial purpose.

15. It is pointed out that the scheme permits allotment to those where possession of only 80% of the acquired land has been taken and possession of 20% land could not be taken for any reason. The eligibility condition under the Scheme is that the applicants should not own a house/residential plot/flat out of Village abadi, or have such premises in his or his relation's name. Thus, in effect, the applicant should not be left with any residential land/premises outside the village abadi and the provision does not make any mention of agricultural land. That an applicant is left with agricultural land outside village abadi would not render her or him ineligible. This is because agricultural land cannot be used for residential purposes and would result in violation of the *Delhi Land Reforms Act, 1954*. In this context, it is argued that provisions of the said scheme were not interpreted to the contrary in *Jai Singh Kanwar (supra)*.

16. The appellant's counsel explains the ratio in *Jai Singh Kanwar (supra)* by submitting that it does not say that an applicant left with agricultural land outside the village abadi would be ineligible under the scheme. What it states is that a person owning a house/residential plot/flat would be ineligible.

17. Counsel appearing for the appellants (Mr. N.S. Dalal, Mr. Vikas Mehta, Mr. Anuj Saini, Mr. Raj Bahadur Singh Mr. Manjul Dahiya

and Mr. J.V. Rana) adopted Ms. Mann's arguments. They also pointed out that the scheme interpreted in *Jai Singh Kanwar (supra)* is different from the one this Court has to deal with. In this context, it is highlighted that the Supreme Court dealt with a case as it stood before its amendment on 30.01.1987. Therefore, the Supreme Court held that the applicant would not be entitled to the benefit of the Scheme inasmuch as possession of the entire acquired land was not taken. However, after the office order dated 30.01.1987, there was a substantial amendment in the policy to the effect that even if possession of only 80% of the acquired land is taken by the concerned authorities, the applicant would still be eligible for alternative allotment in such cases. It is submitted that the cases of appellants are covered by the amended policy/scheme unlike the case of *Jai Singh Kanwar (supra)* which was covered by the unamended policy prior to 30.01.1987.

18. That it is submitted that this Court, in another matter pertaining to alternative allotment, [W.P.(C) No. 540/2015, titled as *Mohd. Swaleheen (Deceased) through LRs. Ms. Fahmida Anjum v Govt. of NCT of Delhi*], where the facts and circumstances were identical to that of in the present cases, as the applicant in that case was left with 16 biswas land but what was left was not any residential premises/house/flat, has rightly held the *ratio* of *Jai Singh Kanwar's case* to be inapplicable. Therefore, it is submitted that the present case of appellants is squarely covered by the judgment in *Mohd. Swaleheen (supra)*. The impugned orders merely by-passed the said judgment referred to and relied upon by the petitioners/appellants on the ground

that what was left with the applicant in the said case was only 16 biswas of land, though, it is submitted that such fact makes no difference.

19. It is also argued that the respondents have sought to place an extremely restricted interpretation on the scheme, which is beneficial as regards the dispossessed landowners and has to be construed as a benevolent provision. Counsel submitted that though the appellants, as erstwhile landowners cannot claim a vested right to allotment of alternative plots in view of the decisions of this Court, they have a right to fair consideration of their applications in accordance with the terms of the scheme, which has not been done.

20. Shri Sanjay Poddar, learned senior counsel for the respondents submitted that the consistent law declared by two Full Bench judgments of this Court was that there is no vested right to claim allotment of alternative plots *in lieu* of acquired lands. He cited *Ramanand v. Union of India & Ors.* AIR 1994 Delhi 29 and said that post-1981, the issue of entitlement to an alternative residential plot has to be considered with reference to the *Delhi Development Authority (Disposal of Developed Nazul Lands) Rules, 1981* for the reason that those Rules are the mandate of the Central Government to the DDA and no allotment contrary to the Rules can be made after the Rules were promulgated in the year 1981. It was stated that with the coming into force of the *Nazul Land Rules, 1981*, all earlier policies occupying an area which came to be occupied by the Rules ceased to exist. Counsel urged that under the Nazul Land Rules, those entitled to an alternative plot, were whose, acquired lands were placed at the

disposal of Delhi Development Authority for the purpose of planned development of Delhi.

21. Learned senior counsel also relied on the Supreme Court decision in *Ravi Khullar & Anr. v Union of India & Ors* 2007 (5) SCC 231 where claim for alternate site was repelled. In para 29 of the said decision in *Ravi Khullar (supra)* the Supreme Court stated that:

"29. It then proceeded to consider the submission urged on behalf of the appellant that in any event it was entitled to the allotment of alternative land in lieu of the lands acquired. The High Court after noticing the Full Bench decision of the High Court in Ramanad v. Union of India and the judgment of this Court in New Riviera Coop Housing Society v Special Land Acquisition Officer observed that if there was a scheme promulgated by the State to provide alternative sites to persons whose lands had been acquired, the Court could give effect to the Scheme. However, it could not be argued as a matter of principle that in each and every case of acquisition the landowners must be given an alternative site because such a principle, if adopted, would result in the State being unable to acquire any land for public purpose. In the instant case the High Court dismissed the writ petition in view of the fact that there was nothing on record to indicate that any application was made to the competent authority for allotting an alternative site within a reasonable period. Reliance placed on the decision of the learned Single Judge of the Delhi High Court in Daryao Singh v Union of India was rightly rejected. That case related to a different award and the landowners concerned in that case gave up the challenge to the acquisition proceedings in view of the assurance given that an alternative plot under the scheme to be formulated shall be given to them. Those facts do not exist in the instant case. Moreover, the Government had

agreed to allot the plots to the landowners and there was no question of recognising any right of the landowners to an allotment of alternative plots. In view of these findings the writ petition preferred by the appellant was rejected."

Analysis and Conclusions

22. The dispute in these cases, is essentially about whether a landowner's properties should be acquired in entirety or if the land acquired is part of what is initially notified, or if possession of part of it is taken by the appropriate government. As would be seen, the lands acquired in these cases, were notified at different stages, awards were made on different dates and possession too was taken on entirely different times. However, in these cases, the common feature is that the land owner's entire land holdings were not divested; in some cases, part of the lands were ultimately acquired or taken possession of; in others, other lands were left with the landowner, which were not subject to acquisition.

23. The scope of the scheme and its *raison d'être* is explained in its object clause which *inter alia* says that it is to benefit "*farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure*". The eligibility conditions no doubt stipulated that for ancestral lands, the concerned landowner should have been a recorded owner and in the case of transferred lands, the owner should have acquired them five years before the notification for acquisition, through a regular deed and should have mutated the property in his or her favour. There are also provisions that clearly state that if lands or houses are in the name, unacquired, in favour of the land owner, that

would not be a bar for application for alternative plots. The appellants' argue firstly the reason given for rejection, i.e., that entire lands were not acquired, but only some lands of the owner were, and secondly, that such interpretation is contrary to an express provision introduced after 30th January, 1987, i.e. that even if 80% of possession is taken over, there is no bar to claim, through an application.

24. As far as the first contention is concerned, that the executive's interpretation that the landowner should not be left with any lands at all is contrary to the letter of the scheme, this Court is unpersuaded by the argument. The object of the scheme clearly stipulates that it is to provide alternative plots to "*farmers whose lands are acquired*". To take the logic of the appellants, conceivably, one individual may own land in four different parts of Delhi, in three different villages. To say that if portions of land in two villages, affecting two pieces of such landholding are acquired, he would still answer the description of a *farmer whose lands are acquired* would be stretching the meaning and intent of the scheme. The broad understanding of the authorities and officials of the Govt. of NCT of Delhi, who considered *Jai Singh Kanwar (supra)* and granted or allowed applications only where no lands were left at all, with the land owners, is, from this perspective, wholly reasonable. The object, as we understand, of the scheme is not to provide all landowners whose lands are acquired but only to extend benefit to those who lost all their landholdings due to acquisition.

25. The above reasoning can be illustrated by facts in a few cases, which are disposed of by this judgment. In LPA 375/2017 Chhanga Singh, the appellant owned 100 bighas in village Kureni, Narela.

Lands were notified for acquisition in 1963 and for which the award was made on 19.09.1986. The appellant's application for alternative plot was rejected on the ground that 71-11 bighas was not acquired. Again, in LPA Nos. 619/2017, 629/2017; 631/2017; 637/2017; 643/2017 and 650/2017, the appellants land in Village Nangli, Razapur were acquired by Award No.16/92-93 dated 19.06.1992. Their applications were rejected on the ground that of 1749.02 bigha owned by them 881.04 bigha had been acquired and the balance 868.13 bigha had not been acquired. These facts and the reason given for declining to allot an alternative plot, are premised on the broad view that such applicants cannot be said to answer the description of "land losers" who are entirely deprived of any holding. The impugned orders cannot be faulted, on this score.

26. The Court holds as insubstantial the distinction drawn between the reasoning in *Jai Singh Kanwar (supra)* and these cases, on the ground firstly that these cases deal with post 1987 situation whereas *Jai Singh Kanwar (supra)* did not so deal with that aspect and furthermore that even if 80% of possession of land is taken over, there is no bar to claim through an application. Post 1987, the Govt. of NCT realized that taking over of possession of the entire notified land was not practicable as a condition for allotment of alternative plot; it, therefore, said that if 80% is taken over, that would be deemed sufficient as an eligibility condition. Far from inuring to the appellant's favour, the Court holds that this modification indicated that the landowner should be in fact deprived of his holding. That in some cases the land owner was not deprived of all holding, was a

factor that could always be taken into account, whether it was before or after the 1987 amendment to the policy.

27. In *Ramanand (supra)* the Full Bench ruled as follows:

“(17) The provisions made in the 1961 Scheme, in respect of the land developed by the Dda may well be taken, as asserted by learned counsel for the petitioner, as directions given by the Central Government in the exercise of power vested in it under sub-section (3) of Section 22. But, nothing would turn on it. The reason, why we say so, is that the Nazul Rules also were made by the Central Government, in the exercise of this very power under sub section (3) of Section 22, in addition to the rule making power conferred upon it under Section 56 (2) (j), for regulating the manner of dealing with Nazul land developed by the DDA. In this way, the provisions earlier made in the 1961 Scheme p73 stand impliedly repealed, by the more comprehensive and detailed provisions made later, on the same subject and in the same field, by the Nazul Rules in 1981. The provisions, therefore, need no further discussion.

(18) In the absence of a specific provision for alternative accommodation in Section 22 (unlike Section 21) of the Act, strong reliance was placed on rules 4, and 12 of the Nazul Rules, to set up the right claimed by the petitioner. In our opinion, however, a combined reading of these rules, and some of the other rules, proves just the opposite.

(19) Rule 3 provides for allotment of Nazul land for public utilities, community facilities, open spaces, parks, play grounds, industrial and commercial uses, and for residential purposes. Allotment of land for residential and various other purposes is indeed necessary for planned development of any zone.

(20) Rule 4 envisages allotment of Nazul land to different categories of persons, i.e.. individuals, association of persons, public and private institutions and co-operative societies etc. It provides that the Dda may allot Nazul land to the categories of persons specified therein. The rule uses the word may. In the context in which this word is used, it cannot be construed as shall. This rule confers on the Dda a power, a power to allot land to the specified categories of persons. It does not confer upon any one aright to allotment, nor does it cast upon the Dda any obligation or duty to make such allotment to any particular person or category of persons mentioned therein. In other words, the rule gives to the Dda, by use of the word may, a discretionary power to allot land to all or any of the named categories of persons. This is clear from the frame of the rule itself, and the same would emerge more clearly from the following discussion.

(21) Rule 4 requires that allotment of land shall be made in conformity with the plans. What are these plans? "Plan" means the Master Plan or the Zonal Development Plan for a zone. These plans are prepared on the basis of the factors indicated in rule 3, so as to cater to the requirement of land for various activities, facilities, purposes and uses, such as utilisation of land for agricultural, Government, commercial, industrial, cultural, educational, re-creational and residential activities, for provision of roads, water, electricity, drainage and disposal of sewage and refuse, and for parks, open spaces, recreational, educational and cultural centres etc. enumerated in clauses (a) to (g) of rule 4 of the Development Rules. Since provision has to be made for these various purposes, the availability of land for residential use, that too for allotment only to individuals, for residential use, in conformity with the plans, becomes very much restricted.

(22) Further, rule 4 directs that allotment has to be made subject to other provisions of the Nazul Rules. It was contended, on the basis of rule 12, that the individuals whose land has been acquired, as against, the others, should be given over-riding and preferential right to allotment of residential land. This proposition would hold good only to the extent of priority for allotment inter-se the individuals referred to in clauses (i),(ii) and (iii) of rule 6. Rule 12 does not place the individuals mentioned in clause(i) at any advantage or over-riding position in relation to the other sub-categories of individuals referred to in clause (iv) or clause (v) of rule 6 itself, much less in relation to the other categories of persons named in rule 4. In any event, the provisions made in rule 13 expressly impinge upon availability of residential plots for allotment to various categories of individuals. It casts upon the Dda a duty, in mandatory terms, to reserve a certain percentage of Nazul land available for residential purposes at any given time, for allotment to individuals placed in a special category, who are members of the Schedule Castes and Schedule Tribes, widows of defense personnel killed in action, ex-servicemen, physically handicapped individuals etc. So, rule 4 has to be read, subject to the provisions made in rule 13 of the Nazul Rules.

(23) Moreover, the category of 'individuals' mentioned in rule 4, is further divided into various sub-categories referred to in clauses (i),(ii), (iii) and (iv) of rule 6. The whole lot of the individuals, referred to in these sub-categories, including the individuals whose land has been acquired, must all be treated on par with each other for determination of the question whether they have a right to allotment of land or they are merely eligible to be considered for such allotment, by virtue of rule 4. Where the number of claimants in the category of individuals, or even in the sub-category of individuals whose land has been acquired, is more than the available number of residential plots, obviously, the claim of each and every

individual cannot be fulfilled. It is, thus, clear that out of the different categories of persons, and even within the category of individuals mentioned in rule 4, only some and not all of them may get a plot.

(24) Rule 6, in reality, controls the rates of premium chargeable only in those cases where land is allotted to the persons mentioned therein. In other cases, the rules provide for sale of land at the market price determined by the highest bid on public auction of land.. Thus, the principle expressed in the form of exception in clause 8 of the 1961 Scheme, which has already been discussed above, is embodied into the Nazul Rules. Where the Dda decides to allot Nazul land to the persons named in this rule, it is bound to charge premium from the allottees only at the predetermined rates. The right and corresponding duty contained in this rule is of a different kind than that sought to be invoked by the petitioner. The right or entitlement of any one to allotment of Nazul land is not regulated by this rule. It regulates only the rate at which premium shall be chargeable in certain cases, and it restricts the liability of allottees, in specified cases, to pay premium for allotment of Nazul land at the predetermined rates, and no less and no more.

(25) Rule 6(i)Proviso, undoubtedly, provides for determination of the size of the plot by the Administrator if an individual is to be allotted a residential plot. But, the power to make the allotment lies within the domain of the DDA. The Administrator, being the land acquiring authority, is to verify whether the land of an individual applicant is acquired, and the area and value thereof. On these facts, then, the Dda, who is entrusted with the power and function of development and disposal of land, would examine the matter, in the light of the plans and the other rules, and decide whether a plot may be allotted to him, and, if so, of what size and where. It cannot be said, on the basis of this provision, that the right to allotment of a plot would accrue, merely on verification

of the claim, and even on the basis of recommendation made by the Administrator in favor of the individual whose land is acquired.

(26) In the present case, letter dated 28th of December 1988 (Annexure P.2) did not convey even a firm offer to the petitioner for allotment of a plot. Indeed, copy of the said letter sent by the Delhi Administration to the petitioner made the position abundantly clear that it did not carry any legal commitment for allotment of a plot. The relevant portion reads thus: "THE allotment of alternative plot is subject to the availability of plot with the Delhi Development Authority. However, it may clearly be noted that this letter does not carry will the legal commitment for the allotment of alternative plot."

(27) Lastly, on the basis of certain observations made in a Full Bench decision of this Court in Shiv Devi v Lt. Governor, Delhi 1986 R.L.R.557, it was contended that it is in public interest that individuals who have lost their land as a result of acquisition should be given alternative accommodation, and that it is the duty of the State to give the same. In our opinion, observations to this effect were made, in paras 20 and 21 of the judgment, for explaining the beneficial object of the scheme for allotment of alternative plots, in a different context. In that case, reference to the Full Bench was made on the question as to who is entitled to the benefit of allotment of a plot on the acquisition of land. This question had arisen in the light of three phases of acquisition proceedings envisaged under the Land Acquisition Act, namely, when the notification under Section 4 is issued, when the declaration under Section 6 is made, and when the land is actually acquired by making an award. Earlier, "the view taken by various Benches was that individuals whose land has been acquired would be considered for allotment of an alternative plot for residential purpose in certain circumstances. Then, in Krishan Kumar Manik V. Union of India and others, it was held that the person

who owned the land at the time when the notification under Section 4 was issued, and not the subsequent transferees, would be entitled to apply for an alternative plot. The Full Bench disagreed with the view taken in Krishan Kumar Manik's case and confirmed the view taken earlier that individuals whose land had been acquired would be "entitled to be considered" for allotment of a plot "in certain circumstances". It was further held that any one whose land has been acquired "is entitled to apply" for allotment of an alternative plot. The observations made in this judgment really go against the proposition sought to be advanced on behalf of the petitioner.

(28) As a result of the above discussion, we find that an individual whose land has been acquired for planned development of Delhi, has no absolute right to allotment, but, he is eligible to be considered for allotment of an alternative plot for residential purposes; and that the Dda may allot Nazul land to such an individual, in conformity with the plans and subject to other provisions of the Nazul Rules.

(29) Now, let us turn to the second question. It may be stated at the outset that individuals whose land has been acquired, are not given residential plots in lieu of acquisition of their land, for which they are paid full compensation, under the Land Acquisition Act. This is an additional benefit envisaged for resettlement of the displaced individuals, and premium is chargeable from such individuals at predetermined rates for allotment of alternative plots under the Nazul Rules."

28. Thus, there can be no inherent right inuring to every individual who loses some lands. Much depends upon the conditions prevalent at the time of the scheme formulation as well as consideration of the application. Other realities such as developed land available for

allotment at pre-determined rates, the number of applications (often multiple applications in respect of same acquired lands, because of several co-sharers, or multiple undivided shares) has to be considered. Having regard to these dynamics, the respondents introduced changes in 1986 and 1987. The minimum extent of acquired lands had to be 150 square yards, initially. After 1986, this was increased to 1 bigha (1000 square yards). Therefore, the respondents' insistence that the applicants who seek alternative plots, should not be left with any lands at all, is reasonable and justified.

Brief discussion of facts in individual appeals

29. In LPA 500/2016, the petitioners/appellants were recorded bhumidars/co-owners to the extent of 1/2th share of 43 bighas and 5 biswas situated in Village Bharthal, Delhi out of which 36 bighas and 16 biswas, i.e. Khasra were notified and acquired for the purpose of Planned Development of Delhi and Construction of a Supplementary Drain by notification dated 13.12.2000. Their application was rejected on the ground that over 7 bighas of land were not subject to acquisition.

29. In LPA 73-74/2014 & 896/2013, the appellants/petitioners were owners and in possession of 1/5th share of agricultural land, total measuring 80 bigha and 15 biswa in the revenue estate of village Khera Khurd, which was acquired for Planned Development of Delhi by award dated 19.12.1996 (72 Bigha and 4 biswa) and award No. 12/2003-04 (8 bigha and 4 biswa). The possession of the land was taken. The reason for rejection was that khatauni for the year 2003-04

indicates that all of the brothers, including the appellants had their share in the land measuring 11-9 bighas and which was not acquired. As the appellants' entire land was not acquired, the application for alternative plot was rejected.

30. In LPA 501/2016, area measuring 90 bighas 10 biswas situated in the revenue estate of Village Dhool Siras, New Delhi was acquired, including the appellants' land. However, land measuring 4-14 bighas in Khasra No. 37/2/1 remained unacquired and was left-out, which resulted in rejection of the application.

31. In LPA 504/2016, the appellant was recorded bhumidar/co-owner to the extent of 1/2th share in land-measuring total 66 bighas and 2 biswas out of which 46 bighas and 03 biswas was notified and acquired for the purpose of Planned Development of Delhi by notification dated 13.12.2000. After the said acquisition, the appellant was left with agricultural land admeasuring 19 bighas and 19 biswas as mentioned in the impugned judgment.

32. In LPA 505/2016, the appellant was the recorded bhumidar/co-owner to the extent of 1/2th share of land admeasuring 99 bighas and 3 biswas situated in Village Dhool Siras, Delhi, of which land admeasuring 91 bighas and 19 biswas was notified and acquired for the purpose of Planned Development of Delhi by notification dated 13.12.2000. The award by the concerned LAC was in respect of the said 91 bighas 19 biswas land and the authorities took possession. After the acquisition, the appellant was left with agricultural land, to the extent of above 7 bighas.

33. In LPA 575/2016 too, the appellants' land to the extent of 52-03 bigha was acquired in Village Dhool Siras, by the same notification. However, here too, his application for alternative plot was rejected because he had land, to the extent of 15 bighas, in the same village, that had not been acquired.

34. In LPA 556/2016, the land acquired is in village Karala, Tehsil Narela. The appellants' request for alternative plot was rejected on the ground that *"as per available record, out of 7-19 bigha land, only 5-11 bigha has been acquired. Hence it is evident that the land of the applicant has not been acquired in the entirety."* The appellant was left with about 2 bighas, 8 biswas land. In LPA 558/2016, similarly, in village Karala, the appellant's land acquired was to the extent of 2-08 bigha; a like extent, i.e., 2-08 bigha was not acquired. The appellant's application was, therefore, rejected on the ground that the entire lands were not acquired.

35. In LPA 576/2016, the appellant's lands in Village Dhool Siras, Delhi and were notified and acquired for the purpose of Planned Development of Delhi by notification no. dated 13.12.2000. The appellant's ownership of land was to the extent measuring 142 bighas 3 biswas (full share) and over 7 bighas (half share). His request for alternative plot was rejected on the ground that *"27 bighas 11 biswas in some Khasra nos. though remains unacquired but the same falls under agricultural land and the other remaining land falling under Khasra nos. 236 (0-13), 262 (0-17), 263/2 (0-3), 264 (3-14) falls under residential plots in the extended abadi lal dora village."* The application for alternative plot was also rejected on the ground that the

land left with the appellant was 21 bighas and 6 biswas in Village Dhool Siras.

36. In LPA 562/2016, the appellants' lands aggregating 28 bighas 12 biswas in the revenue estate of Village Mahipal Pur, Delhi, to the extent of 1/6th share was acquired, by award dated 31.03.1972 and possession was also taken over and was handed over to the requiring department. Another portion of land, measuring 16 bighas 11 biswas, situated in Revenue Estate of Village Kusum Pur, Delhi, was acquired by Award dated 12.09.1980. Compensation for this said land was paid to appellant's father. The application for alternative plot, was rejected on the following ground:

“As per affidavit furnished by the applicant which shows that khasra No. 392/1(3-15), 446 (2-13) and 883 min(0-4) in village Mahipalpur, New Delhi have been used by the applicant for residential purpose in Urban area of Delhi, having ownership of 1 Bigha 2 Biswa in his name out of 6 Bigha 16 Biswa is being used for his residential purpose in village Mahipalpur, New Delhi, hence he is not entitled for allotment of alternative plot.”

37. In LPA 578/2016, the appellant's lands were situated in Village Dhool Siras, acquired for the purpose of Planned Development of Delhi by notification of 13.12.2000. The appellants' ownership of land was to the extent of share in land measuring 98 bigha and 15 biswas. 3 bigha and 10 biswas of land remained unacquired. Since 95 bigha and 5 biswas were acquired (out of the total land of 98 bigha and 15 biswas), and 3 bighas and 10 biswas still remained unacquired, the application for alternative plot was rejected. Likewise, in LPA 579/2016, LPA 580/2016, LPA Nos. 583/2016, 584/2016, the

appellants had 1/8th share in land, in the same village (Dhool Siras) to the extent of 98 bighas, 11 biswas. 95 bighas, 5 bighas were acquired and what was left over was 4 bighas, 19 biswas.

38. In LPA 581/2016, the appellant's lands, in village Dhool Siras, were notified and acquired for the purpose of Planned Development of Delhi by notification, dated 13.12.2000. The appellant's 1/3rd share of ownership of land was to the extent measuring 40 bighas 18 biswas of land, of which 35 bighas and 2 biswa of land was acquired. The land (unacquired) left out is 5 bighas 16 biswas. Similarly, an identical factual situation emerges from the pleadings in LPA 609/2016; LPA 611/2016, LPA 614/2016 LPA 615/2016; LPA 617/2016 & LPA 619/2016. In the latter appeals, however, the extent of shares is different; however, the leftover lands are identical (5 bighas 16 biswas). Therefore, the application for allotment of alternative plot was rejected. In all these appeals, left over land was the reason for rejection of applications for allotment of alternative plot.

39. In LPA 582/2016 too, the acquired lands were in Dhool Siras and the appellant's ownership of land was to the extent measuring 202 bighas. Of that, 151 bighas and 17 biswas of land were acquired. The appellant's 1/10th share is in respect of (unacquired) left over lands, i.e., 50 bighas 03 biswas. Therefore, the application for allotment of alternative plot was rejected.

40. In LPA 590/2016, the appellant's lands at Dhool Siras were acquired for the purpose of Planned Development of Delhi by notification dated 13.12.2000. The appellant's land ownership was to the extent measuring 67 bighas 8 biswas. 50 bighas 2 biswas of land

was acquired and taken possession of. The balance land left with him, which was not acquired, was 15 bighas 5 biswas. Therefore, the application for allotment of alternative plot was rejected. Again in LPA 591/2017, in Dhool Siras, the appellant's land ownership was 48 bighas and 19 biswas. Of this, 31 bighas and 17 biswas were acquired. The land remaining with the appellant is 17 bighas 2 biswas. In LPA 610/2016, the appellant owned (in Dhool Siras) 66 bighas 2 biswas land of which 46 bighas and 3 biswas was acquired. The remaining land in his possession is 20 bighas 1 biswa. In all these cases, the left-over land was the reason for rejection of applications for allotment of alternative plot.

41. In LPA 612/2016, the appellant's lands in Village Dhool Siras were notified and acquired; his ownership of land was to the extent measuring 78 bighas 11 biswas of land. Of this, 73 bighas and 12 biswas of land was acquired. The land (unacquired) left out is 4 bighas 19 biswas in which the appellant has 1/8th share. This remaining land in possession of the appellant is 20 bighas 1 biswa. In all these cases the left over land was the reason for rejection of applications for allotment of alternative plot.

42. In LPA 613/2016, too, the acquired lands were in village Dhool Siras and acquired. The appellant's ownership of land was to the extent measuring 78 bighas 11 biswas of land, of which 73 bighas and 12 biswas of land was in fact acquired. The land (unacquired) left out is 4 bighas 19 biswas in which the petitioner has 1/8th share, which is 11.12 biswas i.e. 575 square metres. Consequently, the application for allotment of alternative plot was rejected.

43. In LPA 629/2016, 631/2016, LPA 637/2016, LPA 643/2016 and LPA 650/2017, the appellants' lands in village Nangli Razapur was acquired by Award No.16/92-93 dated 19.06.1992. All appellants' applications for alternative lands were rejected on the ground that of 1749.02 bigha owned by them, 881.04 bigha was acquired and the balance 868.13 bighas had not been acquired and as such their case could not be considered for alternate plots. In LPA 664/2016, the appellant had interest in lands in village Nangli Razapur that were notified for acquisition on 23.6.1989; the award was pronounced on 19.6.1992 was to the extent of 1749 bighas 2 biswas. On 25.01.1995, a large chunk of acquired land was withdrawn from acquisition. The land, measuring balance land of 794 bighas remained unacquired in which the petitioner had a $\frac{3}{80}$ th share. This worked-out to more than 20 bighas of land. This prompted the respondents to deny allotment of alternative plot.

44. In LPA No. 660/2016, the lands are in village Shahpur Garhi, Narela, and were acquired by Award No.19/97-98 dated 19.12.1997. The appellant claimed a $\frac{1}{12}$ th share in ancestral property. The acquired land was 43 bigha and 1 biswa of land. The appellant's share was $\frac{1}{48}$ th and since this Award was post 03.04.1986 and the land acquired falling to the share of the applicant being less than 1 bigha, he was not considered under the policy for allotment of an alternate plot.

45. The Court notices here, that the committee went by the norm that the acquired lands had more than a bigha. It also considered that the appellant had $\frac{1}{48}$ th share in the lands. However, the appellant had

relied upon relinquishment deeds, by three other co-sharers, who had shares equal to his. This meant that he had 4/48 or 1/12th share in the property. The relinquishment deed, too, was registered. In the Court's opinion, this aspect should have been considered, because the committee did not address itself on the issue, whether the appellant had any other lands; if the appellant's claimed holding of 1/12th share were to be considered, the lands acquired, falling to his share, would have been over one bigha.

46. The appellant's grievance in LPA 686/2016 is that on 22.08.2001, 570 bighas and 15 biswas of land in village Razapur Kalan, Delhi was notified for acquisition, which included a portion of his land (13 biswas and 14 biswas). A subsequent notification dated 27.01.2003 under Section 4 of the said Act was again passed which had acquired another portion of his land; this was 52 bighas and 5 biswas. The appellant is aggrieved because although admittedly 2 bighas and 3 biswa remained (i.e. was not acquired) with him yet this appears to be that due to oversight, this land has not been acquired. The appellant argues that he is left with only a 1/24 share which would work-out to about 80 square yards with which he cannot do much.

47. In LPA 64/2017, the appellant's lands, in Mehrauli, were notified and acquired. Compensation too was paid to him; of 22-11 bigha land originally owned, the land acquired and of which possession was taken, was to the extent of 19-19 bigha. 2 bigha 12 biswa land thus, remained unacquired. Therefore, his claim for alternative plot was rejected.

48. The appellants, in LPA 73-74/2017, were owners and in

possession of 1/5th share of agricultural land total measuring 80 bigha and 15 biswa, in Khera Khurd which was acquired and for which compensation too was assessed and paid. The appellants' claim, for alternative plot was rejected because they still owned 1/5 share each in 11 Bigha and 9 Biswa which were unacquired lands.

49. The appellant in LPA 173/2017 acquired lands were in village Shahbad Daulatpur; the total holding measured 5 Bigha-5 Biswa of which the appellant had 83/113 undivided share. 4 bigha 04 biswas was acquired and taken possession of. The alternative plot application was rejected because the award, a post 1986, did not acquire more than 1 bigha. The learned Single Judge also noted that the appellant also had another unacquired plot, measuring more than a bigha.

50. In LPA 375/2017 the appellant's owned 100 bighas in village Kureni, Narela, which was notified for acquisition in 1963 and for which the award was made on 19-09-1986. The application for alternative plot was rejected on the ground that 71-11 bighas of land remained unacquired.

51. The facts in LPA 447/2017, LPA 448/2017; 466/2017 are that the appellants' lands to the extent of over 14 bighas (in which they had share) in village Tughlakabad were notified for acquisition; the award was made on 30.07.2008. The appellants' application for alternative plot was rejected on the premise that 23 bighas remained and was unacquired. It was also noted that the appellants owned residential property, according to the declaration made by them.

52. The facts in LPA 591/2017 are that the appellant's lands, to the extent of one sixth share in 87 bighas, 4 biswas, Village Dhool Siras,

Delhi were notified and acquired for the purpose of Planned Development of Delhi by notification dated 13.12.2000. These lands were assessed to compensation, which he received. His request for alternative plot was rejected because he was left with unacquired lands, to the total extent of 2-05 bighas.

53. In LPA 81/2017 the appellant's lands were notified for acquisition. The award in respect of the appellants' land (village Nangli, Rajapur) was announced on 19.02.1986 for a total area 71 bighas and 11 biswas. 3 bighas and 17 biswas still remained unacquired. Since not all lands of the appellant were expropriated, her claim for alternative plot was rejected.

54. It is clear from the above facts that in each appeal, the committee applied the same criteria consistently, i.e. whether any applicant was entirely displaced by acquisition proceeding. The adoption of this interpretation is, in our opinion, a fair one, given the limitations that executive agencies would undoubtedly face in dealing with a vast multitude of claims. Even the appeals before this Court have shown that several claimants, mostly co-sharers or joint owners invariably make separate claims. These naturally need to be analyzed. If in fact the respondents were to accede to each request (including the demands of each co-sharer) it is doubtful whether all developed lands would be sufficient to meet the demands. Here again, the Court notices that the scheme contains guidance (*"Where, as a result of clubbing of the shares of nearest blood relations, the area of the acquired land comes to 150 sq. yds. or more, allotment of one plot can be made in their joint names"*). Yet, in most cases, clubbing does not

appear to be resorted to by co-owners who seem to approach through different applications.

55. The Court notices that the appellants' argument that ownership of land or residential property in the village or extended *abadi* is not to be construed as a bar is, no doubt, justified. Yet, the fact that a dispossessed land owner has ownership or possession of a residence in the village, *ipso facto*, cannot entitle him or her to make an enforceable claim for allotment of alternative plot. Particularly when the left over lands with appellants are urbanized ones.

56. In the light of the preceding discussion, it is held that this Court finds no merit in all the appeals, except in LPA 660/2016. All the other appeals, i.e. LPA Nos. 73-74/2014 & 896/2013, 500-501, 504-505/2016, 556/2016, 558/2016, 562/2016, 575-576/2016 578/2016, LPA 579/2016, LPA 580/2016, LPA Nos. 581/2016, 582/2016 & 583/2016; 590/2016; 584/2016, LPA 609/2016; LPA 611/2016, LPA 612/2016, LPA 613/2016, LPA 614/2016 LPA 615/2016; LPA 617/2016 & LPA 619/2016, LPA 629/2016, 631/2016, LPA 637/2016, LPA 643/2016; LPA 650/2016; LPA 664/2016 LPA 686/2016; LPA 64/2017; LPA No. 173/2017; LPA 375/2017; LPA 447/2017, LPA 448/2017; 446/2017; LPA No. 81/2017; LPA 790/2013 and LPA 591/2016, LPA 610/2016, LPA 460/2017 and LPA No. 591/2017 are accordingly dismissed.

57. In LPA 660/2016, the Court holds that the committee did not take into account the documents placed on record with it, in the proper perspective. The said appeal is, therefore, allowed. The committee shall, after issuing notice to the appellant, consider the documents on

record and all other facts, afresh and pass appropriate orders in accordance with the relevant policies, within four months. LPA 660/2016 is, therefore, allowed in these terms.

58. There shall be no order as to costs.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

SEPTEMBER 27, 2017

