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

+ LPA 596/2017, CM APPL.33426/2017

KRISHAN LAL Appellant

Through: Mr. Arun Kr. Kaushik, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Yeeshu Jain, Standing Counsel for
LAC/L&B with Ms. Jyoti Tyagi, Advocate.

Mr. Arun Birbal, Advocate for DDA with Mr.
Sanjay Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

13.09.2017

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This appeal is directed against the order of the learned Single Judge rejecting the appellant's claim for an alternative plot made in terms of the policy of the appropriate Government (GNCTD) amended from time to time, to provide rehabilitation to land owners displaced on account of the acquisition.

The petitioner purchased the lands through a registered sale deed dated 27.06.1990. His contention - urged before the Single Judge, was that negotiations for the execution of the sale deed were on and that the physical possession had been handed over to him by

the original land owner in 1988 prior to the acquisition. The notification under Section 4 of the Land Acquisition Act, 1894 (the old Act) was issued on 26.03.1989. The Single Judge while dealing with the contentions and the relevant facts was of the opinion that since the appellant's case fell within the disqualifying factors, i.e., that the sale deed was registered after the acquisition notification under Section-4, the claimant was disentitled to the policy granting alternative plot.

The appellant's counsel urges that the respondents made inconsistent submissions - on the one hand relying upon the terms of the policy and on the other at the same time issuing No Objection Certificate. It was submitted that the fact that possession was handed over prior to the acquisition but before the execution of the sale deed, had been entirely ignored.

The objective of the scheme - copy of which has been produced along with the present appeal, is to "rehabilitate the agriculturists whose land is acquired by the Government". One of the elements of the policy's stipulations are that those in possession of properties which were less than 150 sq. yds. and for which Awards were announced before 03.04.1986 were entitled to alternative plots; the minimum criteria after 03.04.1986 was at least one bigha. The other eligibility condition - i.e., other than those where ancestral lands were involved stated as follows: -

"B. CASES WHERE LAND PURCHASED THROUGH SALE DEED:

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

- 1. For awards announced pre 3.4.1986 land should have been purchased prior to issue of notification u/s 4 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. ”*

In this case, the acquisition Notification was issued in 1989; thus clearly, the eligibility conditions prescribed by Clause B (2) of the policy had to be fulfilled or satisfied. This stipulation mandates that the land should have been purchased at least 5 years prior to the Award. Thus, at the point of reckoning, for a subsequent purchaser to claim an alternative plot, he would have to have purchased the land prior to 22.06.1984. In the present case, even if the appellant's contention that in fact possession was handed over in 1988 were to be accepted, he would have been clearly ineligible.

In these circumstances, the Court is of the opinion that no relief can be granted. There is no infirmity in the impugned order. The appeal is accordingly dismissed.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 13, 2017/vikas/