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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on : 08.08.2017

Judgment delivered on : 25.08.2017

+ W.P.(C) 12306/2015 & C.M .No.32606/2015

SURINDER SINGH MAAN

..... Petitioner

Through: Mr Rajesh Gupta and Mr Harpreet
Singh, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr Yeeshu Jain and Ms Jyoti Tyagi,
Advs for L&B Department

Mr Kush Sharma and Mr Lalit Mohan,
Advs for R-2

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 The petitioner is aggrieved by the letter of rejection dated 19.05.2015 issued by respondent No. 1 wherein his application seeking allotment of an alternate plot was rejected. By this letter, it was informed to the petitioner that his case for allotment of an alternate plot in lieu of his acquired land had been placed before the Recommending Committee on 25.02.2015; the

Recommending Committee was of the view that the spouse of the petitioner having purchased an urbanized property bearing No.C-5/A/219, Janakpuri, Delhi in her name, the case of the petitioner would not be covered under the Policy Guidelines entitling him to an alternate plot. His case was accordingly rejected.

2 The petitioner is aggrieved. The vehement submission of the learned counsel for the petitioner is that admittedly on the date when he had applied for allotment of an alternate plot which was on 11.07.2003 neither did the petitioner and nor did his wife own any plot of land. Admittedly the wife of the petitioner had purchased the aforementioned plot of land only subsequently i.e. in the year 2004; the criteria for the eligibility of an alternate plot had to be considered by the Department on the date of his application and not at the time when they had scrutinized his documents; this letter of rejection thus suffers from an infirmity.

3 Counter affidavit of the respondent has negated these submissions. The Policy of the Government has also been placed on record.

4 On the perusal of the record, this Court notes that the land of the petitioner had been acquired on 27.10.1999; possession was taken over by respondent No. 1 on 08.05.2000. Compensation for the acquired land was

given to the petitioner on 25.07.2002. The petitioner filed an application under the scheme for allotment of an alternate plot on 11.07.2003. Admittedly on that date, neither did the petitioner nor did his wife have any land in his name. The petitioner had purchased the aforementioned plot in the name of his wife in the year 2004. All these are admitted facts.

5 The only question which this Court has to answer as to whether the Policy of the Government entitling a party to allotment of an alternate plot which admittedly provides that neither the applicant and nor his spouse/dependent children at the relevant date should have any independent house in their name in a residential area; what would be the relevant date i.e. whether it would be the date of filing of the application or the date when the documents are scrutinized by the Department? This is the question which has to be answered.

6 On 10.06.2014, pursuant to a communication dated 17.02.2014 from the Department, the petitioner had submitted his additional documents. During the scrutiny of these documents which had been supplied by the petitioner to the respondent, it had come to light that the wife of the petitioner had acquired an alternate plot on 02.06.2004.

7 At this stage, it would also be useful to extract the eligibility criteria of

the Government which had been approved by the Government of NCT of Delhi in the year 1961 dealing with allotment of alternate plots. The object of the scheme reads as under:-

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

8 The object thus clearly being to provide developed residential plots to farmers whose land had been acquired for the planned development of Delhi; this being a rehabilitative measure.

9 This scheme had come into force w.e.f 02.05.1961. The eligibility criteria (where acquired land is ancestral) reads as under:-

“1. The persons who are RECORDED OWNER prior to issue of notification under Section 4 of the Land Acquisition Act.

2. The persons whose lands have been acquired must have received the compensation as 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 square yards and for awards announced post 3.4.86, the land must not

be less than one bigha.”

10 What is relevant is clause 3. This provides that the applicant should not own a house/residential plot/flat out of village abadi either in his own name or in the name of his dependent relation including unmarried children, nor he should be a member of any Co-operative Housing Society.

11 Admittedly as per clause 3 only those persons who do not have a plot in their own name or in the name of their dependent relation including unmarried children are entitled to such an alternate plot. Vehement submission of the learned counsel for the petitioner however being reiterated that the eligibility criteria had to be determined by the Department in the year 2003 i.e. on the date when the application was made by the petitioner and not later on when the documents were submitted by the petitioner which had then been brought to the notice of the Department that the wife of the petitioner owned a residential plot.

12 This Court is not in agreement with this submission of the learned counsel for the petitioner. The Policy of the Government as is evident from the scheme was to provide residential plots to farmers whose land had been acquired; it was a rehabilitative measure; meaning thereby that it was to rehabilitate those farmers whose land had been acquired as they had become

homeless or landless. In the instant case, the land of the petitioner had been acquired; yet before his allotment could be processed, the wife of the petitioner had acquired a property in her own name meaning thereby that clause 3 (highlighted supra) created a hurdle in the case of the petitioner and since his wife already owned a plot in her name on the date when the allotment was to be issued, the petitioner was not entitled to an alternate plot. It is also not the case of the petitioner that his wife was not dependent on him.

13 In a Full Bench judgment of this Court reported as AIR 1987 Delhi 46 Shiv Devi Vs. Lt. Governor, this provision had been interpreted and the relevant extract of the aforementioned order reads herein as under:-

“This shows that a plot can only be allotted to a person whose wife/husband or any of his/her dependent relations, including unmarried children do not own a house or plot in Delhi. Thus, the only beneficiaries under the Scheme of allotment in lieu of a plot are those who have no house in Delhi or whose dependant family members etc. do not have a house. No other person can get an allotment. If we see the scheme this way, we will understand that it has a distinct beneficial quality regarding the public. It is not a gift. It is a necessity for persons who would otherwise not possibly acquire any homes.

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The Scheme visualises one house per person. When there is a situation of no house or no plot when the existing plot of that person has been acquired by

the State, then it is the duty of the State to given an alternative plot. That is the purpose and the end-all and be all of the Scheme.”

14 Applying the ratio of the aforementioned judgment, the petitioner is not entitled to any relief. Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 25, 2017

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