

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

Date of Order: September 17, 2018

+ **W.P.(C) 2652/2007**

RAJPAL SINGH

..... Petitioner

Through: Mr. Sunil Chauhan, Advocate

Versus

FINANCIAL COMMISSIONER & ORS.

.....Respondents

Through: Mr. Satyakam, Addl. Standing
Counsel with Mr. Mohit K. Bafna,
Advocate for respondent No.1
Mr. Rakesh Kumar, Advocate for
respondent No.3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 16th November, 2006 (*Annexure P-24*) upholds Appellate Order of 20th April, 2006 (*Annexure P-20*), wherein it has been held that petitioner-Objector in his objections of 19th January, 2000 (*Annexure P-6*) had never demanded allotment of plot No.27 to him and it is so reflected in the order of 9th August, 2001. It is also noted in the order of 20th April, 2006 (*Annexure P-20*) that petitioner had confined his prayer to allotment of plot Nos. 29, 30 & 31. The Consolidation Officer, vide order of 8th January, 2002, has accepted petitioner's objections and has allotted plot No.27 and 28, as reflected in the *Akshsirza* (*Annexure P-21*).

2. It is a matter of record that Consolidation Officer's order of 8th January, 2002 (*Annexure P-14*) has been passed in the absence of respondent-*Rajbir*, who was proceeded *ex parte*. Impugned order of 16th November, 2006 (*Annexure P-24*) notes that Appellate Authority has rightly concluded that petitioner herein had restricted his preference to allotment of plot Nos. 29, 30 & 31 and had dropped his request for allotment of plot No.28.

3. Learned counsel for petitioner assails the impugned orders of 20th April, 2006 (*Annexure P-20*) and 16th November, 2006 (*Annexure P-24*) on the ground that petitioner had never given up the claim of plot Nos. 27 & 28. Attention of this Court is drawn to petitioner's cross objections of 19th January, 2000 (*Annexure P-6*) to point out that petitioner had specifically requested the residential plot Nos.28,29 &30 on *Phirni Road*, which have not been allotted to anybody so far, be allotted to him. Counsel for petitioner submits that petitioner's entitlement to allotment of aforesaid plots has not been considered by the Appellate and Revisional Authorities and so, the impugned orders of the Appellate and Revisional Authorities be set aside and order of 8th January, 2002 (*Annexure P-14*) deserves to be restored.

4. On the contrary, counsel for respondent-*Rajbir Singh* supports the impugned order and submits that petitioner had not indicated any preferences in the demand made and so, there is no justification to set aside the impugned orders.

5. On behalf of respondent-*Krishan Kumar*, it is submitted that he had purchased plot No.27 and part of Plot No.28 from respondent- *Rajbir*

Singh after limitation to challenge the Appellate Authority's order had expired and after obtaining 'No Objection Certificate' from the Revenue Authorities and so, there is no justification to disturb the allotment so made vide impugned order.

6. Upon hearing and on perusal of impugned orders of 20th April, 2006 (*Annexure P-20*) and 16th November, 2006 (*Annexure P-24*) and the record of this case, I find that vide order of 8th January, 2002 (*Annexure P-14*), allotment of subject plots i.e. Plot Nos. 106/27 (0-12) and 106/28 (1-10), has been made in favour of petitioner without justifying as to why these plots were withdrawn from second respondent and were allotted to petitioner. Pertinently, Consolidation Officer's order of 8th January, 2002 (*Annexure P-24*) is an *ex parte* order. Appellate Court vide order of 20th April, 2006 (*Annexure P-20*), has set aside the aforesaid order of 8th January, 2002 (*Annexure P-14*) and has allotted subject plots to second respondent herein while observing that petitioner had dropped his prayer for allotment of subject plots. The Financial Commissioner, Delhi, vide impugned order of 16th November, 2006 (*Annexure P-24*), has upheld the Appellate Order of 20th April, 2006 (*Annexure P-20*) while observing that petitioner has restricted his claim to allotment of Plot No.29,30 & 31. To say the least, the Appellate Authority as well as the Revisional Authority has not considered the subject matter of this petition in light of the Consolidation Scheme for village *Khera Kalan*.

7. In the consolidation proceedings, in the first instance, re-allocation of plots is made by lottery but consent of parties is required to be given due weightage and it is to be ensured that no excess benefit is given to

any party and the location and value of plot has to be also considered. Alienation of plots by sale cannot be the justification to refrain from interfering with impugned orders in the consolidation proceedings, as it has to be seen whether mutation of such plots is done after sale or not. The objective of consolidation scheme is that big *bhumidars* are to be re-allocated during consolidation proceedings not at one place but at two or three places. Merely because petitioner had staked his claim to plot Nos. 28, 29 & 30 also, would not justify rejection of petitioner's revision petition on the ground that he had not opted for the subject plots. In the considered opinion of this Court, the appropriate course to adopt in a case where the order of 8th January, 2002 (*Annexure P-14*) is a non-speaking and *ex parte* order, is to remand back the matter to the Consolidation Officer for reconsideration. In the fitness of things, it is deemed appropriate to direct the Consolidation Officer to reconsider the objections filed by petitioner after hearing both the sides and to pass a speaking order in the light of Consolidation Scheme of 18th June, 1999 (*Annexure P-2*) within a period of sixteen weeks from the date so fixed. While setting aside the impugned orders of 8th January, 2002 (*Annexure P-14*) passed by Consolidation Officer; Appellate Order of 20th April, 2006 (*Annexure P-20*) and Revisional Order of 16th November, 2006 (*Annexure P-24*), this petition is disposed of with direction to the parties to appear before the Consolidation Officer on 5th October, 2018.

8. The concerned Consolidation Officer be apprised of this order forthwith to ensure its compliance. It is made clear that the merits of this case have not been commented upon by this Court and it is left open to

the Consolidation Officer to consider it in accordance with the law.

9. With aforesaid directions, this petition is disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

SEPTEMBER 17, 2018

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