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

+ LPA 542/2016 and CM APPL.36380-36381/2016

GOVT OF NCT OF DELHI

..... Appellant

Through

Mr. Sanjay Kumar Pathak, Ms. K. Kaomudi Kiran Pathak, Mr. Sunil Kumar Jha and Mr. Kushal Raj Tater, Advs.

Versus

SATBIR & ANR

..... Respondent

Through

Mr. Sudhir Naagar and Mr. Vijay Kasana, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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28.02.2018

The appellant-Govt. of NCT of Delhi is aggrieved by a direction in the impugned order issued by the Single Judge through which the respondents' (hereafter referred to as 'the writ petitioners') writ petition was allowed and allotment of an alternative plot was ordered.

Late Prabhu Dayal was the owner of the properties at Village Shahpur Garhi. These lands were acquired through an award; he was given compensation on 24.3.1998. Thereafter, he passed away. Prabhu Dayal's son Mr. Satbir applied for an alternative plot as one of his heirs. Before the application could be processed, the other co-owners executed a relinquishment deed in his favour in respect of all

shares owned by them on 7.5.2013. The petitioners approached the Court claiming that subsequently another relinquishment deed was executed by Mr. Satbir in favour of Mr. Mahavir Singh, his cousin (arraigned as 2nd petitioner) in consonance with a Will dated 30.3.1996 by Late Prabhu Dayal. The petitioners claim before this Court that the second relinquishment deed (favouring Mr. Mahavir Singh) was at the behest of the authorities. Later, upon processing the application, request for alternative plot was rejected.

Ld. Single Judge, who disposed of the writ petition, noticed all the relevant facts and held as follows :

4. However, the averment in the writ petition that all the legal heirs of Sh.Prabhu Dayal had executed a relinquishment deed in favour of petitioner no.1-Satbir is un rebutted. It is only thereafter that the petitioner no.1-Satbir had executed a relinquishment deed in favour of petitioner no.2-Mahavir Singh. Consequently, if petitioner no.2-Mahavir Singh had no antecedent title to the property in question and the relinquishment is bad in law, then the entire property would revert in petitioner no.1-Satbir. There is also no denying that without the relinquishment deed, petitioner no.1-Satbir is fully entitled to the alternative plot in lieu of the land acquired.

5. Learned counsel for petitioners states that petitioner no. 2 has no objection if plot is allotted in favour of petitioner no. 1.

6. Consequently, the present writ petition is allowed and the impugned order is set aside. The respondent is directed to issue an alternative plot to the petitioner no.1-Satbir subject to compliance of other formalities if any. Let the needful be done within a period of eight weeks.”

This Court has considered the material on record. There is no infirmity in impugned order inasmuch as, the basic facts with respect to eligibility of the applicant i.e. Mr. Satbir to the allotment of an alternative plot and even to claim (by both petitioners) that Mr. Mahavir Singh was the beneficiary under the Will of Late Prabhu Dayal, remained undisputed. In these circumstances, the directions given by the Single Judge cannot be faulted. The appeal is consequently dismissed. All the pending applications also stand disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

FEBRUARY 28, 2018

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