

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

Date of Order: September 24, 2018

+ W.P.(C) 5570/2015

MEHDI HASAN

..... Petitioner

Through: Mr. Sandeep Bajaj, Ms. Aakansha
Nehra & Mr. Soayib Qureshi,
Advocates

Versus

GOVERNMENT OF NCT OF DELHI

..... Respondent

Through: Ms. Deepika, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 19th February, 2015, rejects petitioner's application for allotment of alternate plot in lieu of land acquired on the ground that purchase of the acquired land was made by petitioner within five years of issuance of Notification for acquisition of subject land under Section 4 of the *Land Acquisition Act, 1894*.

2. The challenge to the impugned order is on the ground that the acquired land was purchased on 25th November, 1994 and the Notification under Section 4 of the *Land Acquisition Act, 1894*, was apparently published in daily newspapers much after the said Notification was published in official gazette on 27th October, 1999 and so, the purchase of subject land was beyond the period of five years. It is

submitted that as per Section 4 of the *Land Acquisition Act, 1894*, not only the Notification has to be published in official gazette but it has to be published in two daily newspapers and in the instant case, the publication in the newspapers was obviously beyond the period of five years of the purchase of subject land and the last date of such publication has to be considered. To submit so, reliance is placed upon Supreme Court's decisions in *Bihar State Housing Board Vs. State of Bihar and Ors.* (2003) 10 SCC 1 and *Chandra Bhan (dead) through legal representatives and ors. Vs. Ghaziabad Development Authority and ors.* (2015) 15 SCC 343.

3. Counsel for respondent supports the impugned order and submits that since the Notification was published on 27th October, 1999 in the official gazette and the purchase of subject land was within five years and so, rejection of petitioner's application was justified. To submit so, attention of this Court is drawn to Guidelines for allotment of alternate plots issued by Government of NCT of Delhi (*Annexure P-6*).

4. Upon hearing and on perusal of impugned order, material on record and decisions cited, I find that purchase of subject land was made by petitioner was on 25th November, 1994 and the Notification under Section 4 of the *Land Acquisition Act, 1894*, in respect thereof was published on 27th October, 1999 and the period between the date of purchase of subject land and gazette notification is few days less than five years. However, despite opportunity given, respondent has not placed on record as to when the Notification of 27th October, 1999 was published in the daily newspapers. Supreme Court in *Chandra Bhan (Supra)*, has reiterated that the last date of publication is to be treated as the date of Notification.

Meaning thereby, even if Notification under Section 4 of the *Land Acquisition Act, 1894* is published in the official gazette, but the date on which it was published in the daily newspapers, would be the last date of its publication. In the instant case, last date of publication of Notification under Section 4 of the *Land Acquisition Act, 1894* is not forthcoming in the counter affidavit filed by respondent.

5. In view of aforesaid, rejection of petitioner's application for allotment of alternate plot in lieu of land acquired, on the premise that the purchase of subject land was made within five years of the said Notification, is unwarranted. Hence, impugned order is set aside with direction to respondent to consider petitioner's application for allotment of alternate plot in lieu of acquired land, within a period of twelve weeks and the fate of said application be made known to petitioner within two weeks thereafter, so that petitioner may avail of the remedies, as available in law, if need be.

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

Dasti.

(SUNIL GAUR)
JUDGE

SEPTEMBER 24, 2018

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