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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7585/2017**
SHRI DALEL SINGH

..... Petitioner

Through: Mr. N.S. Dalal, Adv. and
Mr. D. Chaudhary, Adv.

versus

LAND & BUILDING DEPARTMENT

..... Respondent

Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% 26.07.2018

1. The present petition has been filed by the petitioner challenging the communication dated October 21, 2014 whereby the request of the petitioner for allotment of alternative plot in lieu of acquired land was rejected on the ground that out of 35-0 bigha land, 14-02 bigha land has been acquired. In other words, the land comprising area of 21-4 bigha has not been acquired.
2. Mr. N.S. Dalal, learned counsel for the petitioner states that this aspect is factually incorrect as according to him, by drawing my attention to Payment Certificate dated August 11, 2017 issued by the Land Acquisition Collector District (North Delhi), even the land comprising area of 21-04

has been acquired in 2005-06. He has also drawn my attention to pages 23 and 24 of the paper book which is extract of the Khatoni in support of his submission. He states that in view of this, the respondent should reconsider the case of the petitioner for allotment of alternative plot in lieu of acquired land. He states, the respondent at no point of time before issuing impugned communication expressed their intention to reject the application of the petitioner for allotment of alternative plot on the ground that complete land has not been acquired. He also states, after the receipt of the impugned communication dated October 21, 2014, the petitioner did represent to the respondent vide letter received in the department on March 15, 2016 wherein the petitioner has stated that the total land of the petitioner has been acquired.

3. No counter affidavit has been filed by the respondent. Mr. Yeeshu Jain and Ms. Jyoti Tyagi, learned counsels appearing for the respondent would submit that the impugned decision of the respondent is proper inasmuch as the concerned Committee has rejected the request of the petitioner for allotment of alternative plot on the basis of the documents as available with the Committee. According to him, only land comprising 14-02 bigha was acquired. In other words, there were no documents before the

Committee with regard to the acquiring of land of 21-04 bigha. He also states, even the petitioner has not brought to the notice of the respondent that the 21-04 bigha of land has also been acquired.

4. Having heard the learned counsel for the parties, there is no dispute that the communication dated October 21, 2014 of the respondent rejecting the request of the petitioner for allotment of alternative plot proceed on the premise that it was only 14-02 bigha of land out of 35-0 bigha of land which has been acquired. But the fact remains that the land of 21-04 bigha has also been acquired as seen from the extract of Khatoni at pages 23 and 24 of the paper book on which heavy reliance is placed by Mr. N.S. Dalal. Perusal of the Khatoni would reveal that the land has been acquired vide Award No.06/05-06 dated October 28, 2005 the details of the land being in Khasra Nos.10/22, 20/23, 24/23/2, 58/9 and 11 which Khasra numbers find mentioned even in the payment certificate dated August 11, 2017.

5. Aforesaid being the position, surely the reasoning given by the respondent in its communication dated October 21, 2014 is not tenable. In other words, if the land of 21-4 bigha of the petitioner has been acquired, surely his case needs to have been considered by the respondent in accordance with the policy.

6. Insofar as the submission made by Mr. Yeeshu Jain and Ms. Jyoti Tyagi that the case having been rejected cannot be reopened is concerned, the same is also untenable as this Court in ***W.P. (C) 4782/2015, Praveen Gupta vs. Govt. of NCT of Delhi & Ors.*** decided on July 16, 2018 on a similar issue where the case of the petitioner therein has been rejected this Court had directed the reconsideration of the case.

7. In view of the above, I deem it appropriate to set aside the communication dated October 21, 2014 and remand the matter back to the respondent for consideration of the case of the petitioner, by considering the payment certificate / Khatoni on which reliance has been placed by Mr. Dalal during the submissions. The petitioner shall submit the certified copies of the said documents to the respondent within four weeks from today. On receipt of the documents the respondent is within its right to make such enquiries as deem fit within four weeks thereafter and consider the case of the petitioner strictly in accordance with the policy within six weeks after the expiry of the time period fixed by this Court for enquiries and pass appropriate orders. Any order to be passed shall be communicated to the petitioner. If the petitioner is still aggrieved by the order to be passed by the respondent, the liberty shall be with the petitioner to seek such

remedy as available in accordance with the law.

The petition stands disposed of.

V. KAMESWAR RAO, J

JULY 26, 2018/aky