

\$~A-5

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

+ W.P.(C) 2052/2015

OM PRAKASH CHAUHAN

..... Petitioner

Through

Ms.Kirti Uppal, Sr. Adv. with
Mr.Amanullah, Ms. Bhagya K.
Yadav, Ms.Misbah Bin Tariq and
Ms.Shabeena Anjum Advs.

Versus

UNION OF INDIA & ORS

..... Respondents

Through

Mr.T.P. Singh, Sr.Central Govt.
Counsel for R-1.
Mr.Dhanesh Relan, SC with
Mr.Parotosh Dhawan, Ms.Gauri
Chaturvedi and Ms.Pallavi Nagar,
Advs. for DDA.
Mr.Yeeshu Jain, Standing Counsel
with Ms.Jyoti, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

14.01.2020

1. This writ petition is filed by the petitioner seeking to impugn the orders dated 11.10.1998 and 22.04.2004 passed by the respondent rejecting the case of the petitioner seeking allotment of an alternate plot. Directions are also sought to respondent No. 2 to re-open the file of the petitioner and to decide it on merits for grant/allotment of an alternate plot.

2. The case of the petitioner is that Sh.Harchand, the father of the petitioner, was the owner of the land measuring 25 Bigha and 8 Biswas situated in the revenue estate of Village Jasola, Delhi. The land was acquired

vide notification dated 06.04.1964 under Section 4 of the Land Acquisition Act, 1894(hereinafter referred to as “the Act”). Subsequently vide notification dated 07.12.1966 under Section 6 of the Act was passed. Thereafter, Sh. Harchand expired on 25.06.1986 leaving behind the petitioner and his 5 sisters as his only legal heirs. Compensation was received by the petitioner for the acquisition of the land on 29.01.1987.

3. It is pleaded that as per the scheme framed and governed by the respondent, the petitioner was entitled to allotment of an alternative plot measuring 400 sq. yards in Dwarka. An application for allotment of land was moved on 28.09.1987 within the stipulated time. There is some controversy regarding subsequent steps taken by the respondent. It is stated that as per respondent No. 2, they sent letters dated 13.12.1991 and 23.01.1992 for furnishing all relevant documents. However, the petitioner denies receipt of any such communication.

4. It is further pleaded that the petitioner vide letter dated 15.01.1997 again requested for an alternate plot. It is only on 10.02.1997 that the petitioner is said to have received a communication giving a final opportunity to submit the documents. It is stated that on 26.08.1997, the petitioner replied stating that he had not received any prior communications and submitted the entire documents to the respondent. Subsequently, the impugned order dated 11.10.1998 was passed but the petitioner as stated was not intimated about the same. It is further pleaded that the petitioner wrote letters to respondent No. 2 sometime in 2004 stating that the additional relevant documents were submitted on 27.01.2004 and requested to reopen the file and also issued a legal notice.

5. Thereafter, the respondent issued an order dated 22.04.2004 stating

that the petitioner had not filed legal heir certificate which was required vide letters dated 10.02.1997 and 23.10.1997 until 23.01.2004 and as per the policy decision the case was closed and there was no change of status of the case. Subsequent to the said order dated 22.04.2004, the petitioner preferred a writ petition being WP(C) 10802/2015 titled as “Om Prakash vs. UOI & Ors.” which was dismissed vide order dated 29.10.2013. The petitioner preferred an appeal being LPA No. 97/2014 against the order dated 29.10.2013 which was disposed of vide order dated 06.02.2014 granting liberty to the petitioner to challenge respondent No. 2’s order not to reopen the file of the petitioner. Hence, the present writ petition.

6. I may note that this writ petition was dismissed on 21.10.2016. The Division Bench in LPA No. 219/2017 on 25.02.2019 set aside the said order dismissing the writ petition dated 21.10.2016. The Division Bench noted that the documents sought by the respondent vide letter dated 10.02.1997 had been submitted by Late Sh. Om Prakash Chauhan i.e. the petitioner. There was no reason for the respondent to sit over the matter and not decide the application filed by the petitioner and that the respondent could not have closed the case stating that there is no change in the status of the case. The matter was remanded back to this court for decision on merit.

7. On 08.03.2019 when the matter came up after remand from the Division Bench, as none appeared for the respondents, court notices were issued to respondents No. 1 to 3 which were duly served. However, still none appeared for respondent No.2. Again on 24.07.2019 and 15.10.2019 notices were sent to respondent No. 2.

8. A perusal of the impugned order dated 11.10.1998 shows that the rejection was on the plea that there is a delay in applying for allotment of an

alternate plot. Similarly, in the order dated 22.04.2004, the respondent noted that the petitioner failed to produce the documents i.e. the legal heir certificate and payment certificate. Admittedly, the same order notes that the legal heir certificate and the revenue record have been submitted on 27.01.2004 and 18.03.2004.

9. It is manifest that the documents had already been filed by the petitioner as required by the respondent. These documents are at page 37 onwards of the writ petition. As the concerned documents had already been filed the impugned order is erroneous.

10. Accordingly, the impugned communications dated 11.10.1998 and 22.04.2004 are quashed. The concerned Secretary of the Land and Building Department would treat this writ petition as a representation of the petitioner. The said Secretary is requested to pass a reasoned order within three months from today. If any clarifications are required, the petitioner is free to file additional documents/representation before the concerned Secretary.

11. With the above directions, the petition stands disposed of.

JAYANT NATH, J

JANUARY 14, 2020/rb