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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 5 JANUARY 2022**+ **W.P.(C) 6804/2020****SUNIL SEHRAWAT** Petitioner

Through: Mr. Varun Mehlawat, Adv.

versus

GOVT OF NCT OF DELHI & ORS. RespondentsThrough: Mr. Yeeshu Jain, Standing Counsel with
Ms. Jyoti Tyagi, Adv.**CORAM:****HON'BLE MR. JUSTICE YASHWANT VARMA****YASHWANT VARMA, J. (ORAL)**

1. The present writ petition challenges an order passed by the respondents rejecting the application made by the petitioner for grant of an alternative plot in lieu of acquisition.

2. Undisputedly the petitioner's land was subjected to proceedings of acquisition under the Land Acquisition Act, 1894 and formed part of the notifications issued under Sections 4 and 6 of the enactment on 27 October 1999 and 3 April 2000. The petitioner is stated to have made an application for the grant of an alternative plot in light of the policy as framed by the respondents. On the record is a communication of 5 August 2003 addressed by the respondents pointing out to the petitioner various deficiencies in the application that was made. The petitioner in response to that notice is stated to have submitted a reply on 22 September 2013 pointing out that all documents had been duly submitted along with the



original application except for the letter mentioned at serial number 12 of the communication of 5 August 2003. The matter remained undecided till the passing of the impugned order by the respondents on 2 June 2020.

3. In the impugned order the respondents have proceeded to record that although the petitioner was called upon to personally appear before them on 25 November 2017 and support his claim for allotment of an alternative plot, he chose not to avail of that opportunity. The respondents have also then referred to the notices issued on 2 September 2016 and 10 November 2017 which, according to them, remained unattended too. They have lastly referred to a public notice which was issued on 13 May 2018 calling upon all to submit requisite documents so that their pending applications for grant of alternative plots may be disposed of. It is their case that despite the aforesaid notices being issued, the petitioner failed to attend to the proceedings which were pending or to comply with the requirements as have pointed out by them. The application has ultimately come to be rejected with the respondents recording that it appears that the petitioner is no longer interested in pursuing his claim.

4. Assailing the aforesaid order, the petitioner has in paragraph 12 contended that no notices as are referred to in the impugned order were ever served on the petitioner and that even the publication of the other notices could not be ascertained. The contention in essence is that after complying with all requirements, the petitioner was never informed that any further formalities were required to be completed for the consideration and disposal of the application made.

5. The order sheet of the present matter reflects that although time had been granted on previous occasions to the respondents to file a counter
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affidavit, no affidavit in opposition to the writ petition was filed. The Court ultimately on 26 November 2021 had observed that in case no affidavit is filed within the extended time granted, the matter would proceed ex parte and on the state of the record as it exists. Today when the matter is taken up, the position remains the same with the respondents having failed to file a response to the writ petition despite the repeated opportunities granted earlier. This constrains the Court to record that the assertion of the petitioner that he was never placed on notice of the requirements to be complied with has gone unrebutted. The respondents, in view of the above, were clearly unjustified in holding that the petitioner appeared to be disinterested in pursuing his claim. Since that aspect alone forms the bedrock of the order impugned here, is clearly rendered unsustainable. The circumstances would thus warrant the matter being remitted to the respondents for considering the claim of the petitioner afresh and in accordance with law.

6. However, before proceeding to do so, it becomes pertinent to note that the petitioner has not placed on the record the original application which is stated to have been made for the purposes of grant of an alternative plot. There is also no credible material that may indicate that the discrepancies in the application which were pointed out in the communication of 5 August 2003 were either non-existent or that all requisite material had in fact been filed by the petitioner at the time of the making of the original application. In view of the aforesaid, the ends of justice would warrant the petitioner being required to file all requisite documents afresh and as may be required for the purposes for consideration of his application and all contentions of parties on merits being kept open.



7. Accordingly, and for the aforesaid reasons, this writ petition is allowed. The impugned order of 2 June 2020 is quashed. The matter shall in consequence stand remitted to the competent authority for considering the claim of the petitioner for grant of an alternative accommodation afresh and in accordance with law. All contentions of respective parties on merits are kept open. The petitioner is further directed to supply and re-submit all necessary documentation that may be required in terms of the policy framed by the respondents for the purposes of consideration of his claim for grant of an alternative accommodation within a period of three weeks from today.

YASHWANT VARMA, J.

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