



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

% **Date of order : 7th September 2022**

+ **W.P.(C) 12570/2021 & CM APPL. 54469/2018**

RAM NIWAS Petitioner

Through: Mr. Madan Lal Sharma and
Ms. Tejaswani Verma,
Advocates

versus

**GOVERNMENT OF NCT DELHI LAND AND BUILDING
DEPARTMENT (TASK FORCE) THROUGH
ITS PRICIPLE SECETARY & ANR** Respondents

Through: Mr. Sanjay Dewan and Ms.
Shivani Pruthi, Advocates

**CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

“(i) to issue a writ of mandamus or such other writ order or direction in the like nature thereby directing the respondents, its officials, representatives, administrators etc. to fairly consider and decide the representation of the petitioner dated 11.11.2020 (annexure-P12) by giving due and fair opportunity to petitioner and by passing a reasoned order;

(ii) to issue a writ of certiorari or such other writ order or directions in the like nature whereby the



communication/order/letter No. F.33(49)/8/99/ L&B/ALT. 1901 dated 20.02.2014 issued by Govt. of NCT, Delhi, Land & Building Department (Task Force)/Alternate) Vikas Bhawan, New Delhi-110002 (Respondent No.I) rejecting the application of the petitioner for allotment of alternative plot in lieu of the acquisition of agricultural land of the petitioner comprised of Khasra Nos. 518 (0-4), 514 (4-16), 484 (4-16), 519 (4-12), total 14 bighas 4 biswas, situated in Village Ghoga, Delhi, wherein the petitioner has 1/8th share land may be ordered to be quashed and set aside;

(iii) to issue a writ of mandamus or such order or directions in the like nature may be passed/issued thereby directing the respondents to allot the petitioner alternate plot in lieu of his acquired land of the petitioner comprised of Khasra Nos. 518 (0-4), 514 (4-16), 484 (4-16), 519 (4-12), total 14 bighas 4 biswas, situated in Village Ghoga, Delhi in terms of the scheme/policy of 1961 as modified or amended upto date;

(iv) to issue any other writ order or direction which this Hon'ble court may deem fit and proper may also be issued in favour of the petitioner and against the respondent. ”

2. The petitioner is the owner of 1/8th share of land comprised in Khasra No. 518 (0-4), 514 (4-16), 484 (4-16), 519 (4-12), total 14 bighas 4 biswas, which was acquired by the Government under Section 4 of the Land Acquisition Act, 1894, vide notification no. F.7 (3)98/L&B/LN3089 dated 9th June 1998. Award No. 5/1998-99 was also published in lieu of the acquisition.

3. The petitioner thereafter applied for allotment of alternative plot under the Scheme dated 2nd May 1961 for “Large Scale Acquisition Development & Disposal of Land in Delhi” (hereinafter “Scheme of 1961”) vide application dated 23rd September 1999, which



came to be rejected by the respondents vide letter dated 20th February 2014.

4. The petitioner is aggrieved by the said rejection letter.

5. Learned counsel appearing on behalf of the petitioner submitted that the impugned letter rejecting the application of the petitioner was passed without appreciating that the petitioner had submitted all relevant documents. It is submitted that the petitioner alongwith the application submitted an affidavit, photocopy of cheque received from the Land Acquisition Controller, certificate of payment and ID card which was duly acknowledged by the DDA.

6. It is submitted that the petitioner filed an RTI application on 4th September 2020 in response to which the respondent no. 1 supplied the complete file pertaining to his case to him. Vide Notice dated 15th May 2013, the petitioner was called upon to submit documents. The petitioner replied to the said Notice and stated that all relevant documents including the Khatoni, Ration Card, Election ID Card, duly attested Specimen Signature, Electricity Bills, Affidavit and Indemnity Bond. It is submitted on behalf of the petitioner that the petitioner was called upon to submit revenue records of Khasra No. 518 (0-4) prior to acquisition, however, due to inadvertence the petitioner submitted payment certificate issued by the Land Acquisition Collector.

7. Learned counsel for the petitioner submitted that the petitioner the impugned letter dated 20th February 2014 was not received by him and only upon filing an RTI application he came to know that his application for allotment of alternative plot had been decided and rejected.



Thereafter, the petitioner again filed a representation alongwith the Khatoni with respect to Khasra No. 518 (0-4), however, in response to the same, the respondent reiterated that the application of the petitioner for allotment of alternative plot had already been rejected vide letter dated 20th February 2014.

8. It is submitted that the respondent no. 1 before rejection of the application neither gave any proper opportunity to petitioner and even the alleged rejection letter dated 20th February 2014 was not supplied to petitioner. It is further submitted that erstwhile land owners though cannot claim a vested right to allotment of alternative plots, but they have a right to fair consideration of their applications in accordance with the terms of Scheme of 1961.

9. The learned counsel for the petitioner relied upon ***Shiv Devi Birli vs. Lt. Governor, AIR 1987 Del 46, Ramanand vs. Union of India, AIR 1994 Del 29*** and ***Kranti Associates Pvt. Ltd. vs. Masood Ahmed Khan, (2010) 9 SCC 496*** to give force to his arguments.

10. It is submitted that the rejection of the application of the petitioner merely on the ground of non-submission of the revenue record of only one Khasra No.518 (0-4) is illegal, arbitrary and unjustified, therefore liable to be quashed and set aside.

11. *Per Contra*, learned counsel appearing on behalf of the respondents vehemently opposed the submissions made on behalf of the petitioner and submitted that there is no illegality in the impugned communication made by the respondent to the application of the petitioner.

12. It is submitted that the impugned letter was duly dispatched to the



address of the petitioner and the ground taken by the petitioner that the letter was not communicated to him is false and incorrect. Moreover, several communications were made to the petitioner asking him to furnish the requisite documents, however, despite the said communications the petitioner failed to comply with requests and hence, his entitlement for an alternative pot could not be ascertained. It is submitted that due to the non-submission of such requisite documents the application of the petitioner was rejected and therefore, there is no force in the challenge to the impugned letter. Hence, the instant petition is liable to be dismissed.

13. Heard learned counsel for the parties and perused the record.

14. Under Article 226 of the Constitution of India, High Courts have the power to adjudicate upon an impugned order along with the power to entertain writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari. While adjudicating upon an impugned order, the scope of writ jurisdiction is narrowed to examining the contents of the order which is before the Court. Any consideration beyond assessment of the impugned order, including investigation into evidence and question of facts would amount to exceeding the jurisdiction.

15. The Hon'ble Supreme Court in ***Union of India vs. P. Gunasekaran***, (2015) 2 SCC 610, elaborating upon the extent of exercise of writ jurisdiction, held as under:-

“13. Under Articles 226/227 of the Constitution of India, the High Court shall not: (i) reappreciate the evidence; (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law; (iii) go into the adequacy of the evidence; (iv) go into the reliability of the



evidence; (v) interfere, if there be some legal evidence on which findings can be based. (vi) correct the error of fact however grave it may appear to be:....”

16. Further, the Hon’ble Supreme Court in ***Sarvepalli Ramaiah vs. District Collector, Chittoor, (2019) 4 SCC 500***, made the observations as reproduced hereunder, while examining the scope of Article 226 of the Constitution of India:-

“41. In this case, the impugned decision, taken pursuant to orders of Court, was based on some materials. It cannot be said to be perverse, to warrant interference in exercise of the High Court's extraordinary power of judicial review. A decision is vitiated by irrationality if the decision is so outrageous, that it is in defiance of all logic; when no person acting reasonably could possibly have taken the decision, having regard to the materials on record. The decision in this case is not irrational.

42. A decision may sometimes be set aside and quashed under Article 226 on the ground of illegality. This is when there is an apparent error of law on the face of the decision, which goes to the root of the decision and/or in other words an apparent error, but for which the decision would have been otherwise.

43. Judicial review under Article 226 is directed, not against the decision, but the decision-making process. Of course, a patent illegality and/or error apparent on the face of the decision, which goes to the root of the decision, may vitiate the decision-making process. In this case there is no such patent illegality or apparent error. In exercise of power under Article 226, the Court does not sit in appeal over the decision impugned, nor does it adjudicate hotly disputed questions of fact.”



17. Further in *Sanjay Kumar Jha vs. Prakash Chandra Chaudhary*, (2019) 2 SCC 499, the following observations were made by the Hon'ble Supreme Court:-

“13. It is well settled that in proceedings under Article 226 of the Constitution of India, the High Court cannot sit as a court of appeal over the findings recorded by a competent administrative authority, nor reappreciate evidence for itself to correct the error of fact, that does not go to the root of jurisdiction. The High Court does not ordinarily interfere with the findings of fact based on evidence and substitute its own findings, which the High Court has done in this case....”

18. Therefore, while examining the challenge to an impugned order, the Court has to limit itself to the consideration whether there is any illegality, irregularity, impropriety or error apparent on record. The law is clear that a High Court exercising its writ jurisdiction shall not appreciate evidence and must not interfere in the order impugned unless there is a gross illegality or error apparent on the face of record. Hence, this Court will also limit itself to the contents of impugned rejection letter dated 20th February 2014.

19. The petitioner is before this Court has challenged the letter dated 20th February 2014 vide which his application for alternative plot was rejected. The said letter has been perused by this Court and relevant portion of the same is reproduced hereunder:-

“With reference to the above-mentioned subject, it is to inform you that your case for allotment of alternative plot in lieu of acquired land has been placed before the meeting of Recommendation Committee held on 17/01/2014 and the Committee observed that the applicant vide this office letter



*of even number dated 15.05.2013 and latest letter of even number dated 23.07.2013 was requested to submit the required documents but he failed to furnish the requisite reply. The applicant has failed to respond to the various letters of this office. Due to non-submission of requisite documents, the eligibility of the applicant for allotment of alternative plot cannot be ascertained, hence the case is **REJECTED**.”*

20. The process for allotment of alternative plot is outlined under the Scheme of 1961 which not only provides measures for controlling value in urban areas but also largely regulates the conditions stipulated for acquisition, development and disposal of land. It provides for eligibility criteria as well as conditions and procedures one needs to follow while applying for allotment of alternative plot. In the instant case, the relevant condition was the submission of all requisite documents for proper adjudication of the case of the petitioner.

21. The respondents vide its communication dated 11th October 2000, 19th September 2001, 15th May 2013, 23rd July 2013, requested the petitioner to correct the deficiencies in his application and submit the documents required for proper consideration of his case for allotment of alternative plot. The respondents very specifically mentioned the documents required for consideration of application of the petitioner for allotment of alternative plot which is evident on the perusal of the aforesaid communications which are appended to the petition as Annexure P-5 (Colly). However, not only did the petitioner failed to furnish the said documents, he also failed to specify any reasons for not furnishing the documents requested for in his reply to the communication



made by the respondent.

22. In the absence of the requisite documents which were essential for consideration of the case of the petitioner the respondents could not have proceeded with, specially when several attempts were made by them to obtain the relevant documents from the petitioner. The authorities cannot be made answerable in such a situation where the petitioner himself has been casual and negligent in attending to the requirements duly communicated to him and having his application entertained.

23. Keeping in view, the facts and circumstances, as well as the arguments made on behalf of the parties and the observations made as above, it is found that the impugned rejection letter does not suffer from any gross illegality or any error apparent on the face of record which would warrant interference by this Court. The petitioner was given ample opportunity to provide the requisite documents for consideration of his application for allotment of alternative plot, however, he failed to do the needful and hence, the application was rightly rejected.

24. Accordingly, this Court finds that there is no merit for challenging the impugned letter dated 20th February 2014 and therefore, the instant petition is dismissed.

25. Pending applications, if any, also stands disposed of.

26. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 7, 2022/gs/ms