



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order : 15th September 2022**

+ **W.P.(C) 13353/2022**
SH MANGE RAM Petitioner

Through: Mr. Sandeep Thakur, Advocate

versus

THE GOVT OF NCT OF DELHI Respondent

Through: Ms. Jyoti Tyagi, Advocate

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Articles 226 and 227 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:-

“a) Issue a writ of mandamus or an order, direction in the nature of mandamus or any other writ provision for issuing a writ of mandamus or certiorari or any other appropriate writ against the respondent by set-aside the rejection order dated 20.09.2019 in respect of the alternative plot passed by the respondent and allow the recommendation of alternative plot to the petitioners in lieu of their acquired land.

b) Pass the direction for reconsider the matter of the petitioners' case/application for alternative plot by the competent officials of the respondent having



vast legal knowledge of scheme laid down by Govt. of NCT of Delhi in respect of alternative plots by remanding the matter.

c) Pass any other or further relief, which this Hon'ble Court deem fit and proper under the facts and circumstances of the case in favour of petitioner and against the respondent."

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had applied for allotment of alternative plot in lieu of acquisition of his land under the Scheme dated 2nd May 1961 for "Large Scale Acquisition Development & Disposal of Land in Delhi" (hereinafter "Scheme of 1961") in the year 2011 and submitted all the requisite documents in the 2019 and 2021, however, he did not receive any satisfactory reply from the office of the respondent. Vide order dated 20th September 2019, the respondent rejected the application of the petitioner for allotment of alternative plot on the ground that certain agriculture land remains in the name of the petitioner.

3. It is submitted that the petitioner does not have any part of the land as has been observed by the respondent in the impugned communication dated 20th September 2019.

4. It is submitted that as per the Scheme of 1961, the petitioner is entitled for alternative plot as all other villagers, whose land was acquired and who had received the alternative plot under the scheme and petitioner cannot be deprived from the same entitlement. In this respect, the petitioner had given representation to the respondent on 26th August 2022 for reconsideration of his case and allow the allotment of alternative plot in his favour.



5. Learned counsel for the petitioner submitted that the communication dated 20th September 2019 is liable to be set aside.

6. *Per Contra*, learned counsel appearing for the respondent vehemently opposed the instant petition and submitted that there is no error or illegality in the communication bearing F.No. SDM(HQ)/SW/2019/3179/66226 dated 20th September 2019.

7. It is submitted that the recommendation committee and the scrutiny committee considered the case of the petitioner and found that the certain portion of the land still remains in the name of the petitioner. Therefore, the instant petition is liable to be dismissed for being of any merit.

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

9. The subject matter of the Scheme of 1961 was '*Control of land values in the Urban Areas of Delhi- Acquisition, development and disposal of land*' which came into force on 2nd May 1961 and has been modified from time to time. The Scheme for Large Scale Acquisition Development & Disposal of Land in Delhi not only provided for measures for controlling value in urban areas but also largely regulated the conditions stipulated for acquisition, development and disposal of land.

10. The objective of the Scheme of 1961 suggests as under:-

“The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure”

11. This objective has also been reiterated by this Court as well as the Hon'ble Supreme Court in various cases. A coordinate bench of this Court in ***Jai Singh Kanwar vs. Union of India, 2008 SCC OnLine Del***



492, made the following observations:-

“7.2 Giving its imprimatur to the policy the Full Bench in Shiv Devi Viriley explained the rationale for the policy was to see that the population of Delhi is properly housed and has the means for acquiring residential houses and further that if a person has bought a residential plot privately and the State chooses to acquire that land at a very meagre price, then surely it is the duty of the State to give an alternative plot at a moderate price to those persons who have been deprived of possible residential houses, which they could have constructed on the land they have acquired”

12. Further, in ***Surender Singh Mann vs. Government of NCT of Delhi***, W.P.(C) 12306/2015, decided on 25th August 2017, a Coordinate Bench of this Court observed as under:-

“7 At this stage, it would also be useful to extract the eligibility criteria of the Government which had been approved by the Government of NCT of Delhi in the year 1961 dealing with allotment of alternate plots. The object of the scheme reads as under:-

“The scheme of providing developed residential plots to farmers whose lands are acquired for planned development of Delhi is a rehabilitation measure”

8 The object thus clearly being to provide developed residential plots to farmers whose land had been acquired for the planned development of Delhi; this being a rehabilitative measure.

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12 The Policy of the Government as is evident from the scheme was to provide residential plots to farmers whose land had been acquired; it was a



rehabilitative measure; meaning thereby that it was to rehabilitate those farmers whose land had been acquired as they had become homeless or landless.”

13. In *State of M.P. vs. Narmada Bachao Andolan*, (2011) 7 SCC 639, the Hon’ble Supreme Court elaborated on the general principle and provisions for rehabilitation and observed as under:

“Land acquisition and rehabilitation : Article 21

26. It is desirable for the authority concerned to ensure that as far as practicable persons who had been living and carrying on business or other activity on the land acquired, if they so desire, and are willing to purchase and comply with any requirement of the authority or the local body, be given a piece of land on the terms settled with due regard to the price at which the land has been acquired from them. However, the State Government cannot be compelled to provide alternate accommodation to the oustees and it is for the authority concerned to consider the desirability and feasibility of providing alternative land considering the facts and circumstances of each case.

27. In certain cases, the oustees are entitled to rehabilitation. Rehabilitation is meant only for those persons who have been rendered destitute because of a loss of residence or livelihood as a consequence of land acquisition. The authorities must explore the avenues of rehabilitation by way of employment, housing, investment opportunities, and identification of alternative lands.

“10. ... A blinkered vision of development, complete apathy towards those who are highly adversely affected by the development process and a cynical unconcern for the enforcement of the laws lead to a situation where the rights and benefits promised and guaranteed under



the Constitution hardly ever reach the most marginalised citizens.” (Mahanadi Coalfields Ltd. case [Mahanadi Coalfields Ltd. v. Mathias Oram, (2010) 11 SCC 269 : (2010) 4 SCC (Civ) 450 : JT (2010) 7 SC 352] , SCC p. 273, para 10)

For people whose lives and livelihoods are intrinsically connected to the land, the economic and cultural shift to a market economy can be traumatic. (Vide State of U.P. v. Pista Devi [(1986) 4 SCC 251 : AIR 1986 SC 2025] , Narpat Singh v. Jaipur Development Authority [(2002) 4 SCC 666 : AIR 2002 SC 2036] , Land Acquisition Officer v. Mahaboob [(2009) 14 SCC 54 : (2009) 5 SCC (Civ) 297] , Mahanadi Coalfields Ltd. v. Mathias Oram [Mahanadi Coalfields Ltd. v. Mathias Oram, (2010) 11 SCC 269 : (2010) 4 SCC (Civ) 450 : JT (2010) 7 SC 352] and Brij Mohan v. HUDA [(2011) 2 SCC 29 : (2011) 1 SCC (Civ) 336] .) The fundamental right of the farmer to cultivation is a part of right to livelihood. “Agricultural land is the foundation for a sense of security and freedom from fear. Assured possession is a lasting source for peace and prosperity.” India being a predominantly agricultural society, there is a “strong linkage between the land and the person's status in [the] social system”.

14. Hence, it is evident that the Scheme of 1961 was introduced as a means to provide for those whose land is acquired for the purposes of development and to ensure that such persons are not rendered homeless or landless in the event of such acquisition.

15. The relevant portion of the impugned communication is reproduced hereunder:-

“The Scrutiny Committee had examined the case on the basis of available record and the government



guidelines. A factual report of halka patwari (3/N) was also placed before the committee in which mentioned that the agriculture land is remaining in the name of applicant. The entire land of applicant was not acquired. Hence, he is not eligible for alternative plot.

Since, the case does not fall under the category of eligible applicant for allotment of alternate plot, the Scrutiny Committee has decided to not to recommend the case of Sh. Mange Ram S/o Ram Pat for allotment of alternate plot.

The recommendation of Scrutiny Committee and the record on file has been considered by the Recommendation Committee and it is decided to reject the case of Sh. Mange Ram S/o Ram Pat for allotment of alternative plot.”

16. In the instant matter, the relevant condition, which became the ground for rejection of the petitioner's application, was that the entire land of the petitioner was not acquired. The Scheme for alternative plot does not confer a direct and absolute right to any person whose land is acquired. The Scheme provides for conditions under paragraph 10, which were updated and modified with time and as per requirements. These conditions act as eligibility criteria for the land owners whose lands were acquired and who became entitled to be considered for allotment of alternate plot, subject to the conditions laid.

17. These conditions which stood under paragraph 10 of the Scheme are reproduced hereunder:-

“10. The following conditions shall govern the allotment of land whether by auction or otherwise to



individuals (including those whose land has been acquired):

a) No plot should be allotted to any person, who or whose wife/husband or any of his/her dependent relations including unmarried children owns a house or residential plot of land in Delhi, New Delhi or Cantonment. The question of making an exception in the case of persons living in a congested locality or whose family has out-grown should be considered after some experience has been gained of the working of the scheme.

b) The allottee of a plot should be required to construct the house in accordance with the sanctioned plans within two years of the date of allotment, failing which the land would be liable to be resumed.

c) The allottee of a plot shall not sell or transfer his rights in the plot or part thereof for a period of 10 years from the date of allotment except with the previous approval of the Chief Commissioner which will be given only in exceptional circumstances. Thereafter the permission to sell will be given to the Chief Commissioner. In both the cases, 50% of the unearned increase in the value of the plot will be paid to the Government before the transfer is permitted.....”

18. The Division Bench of this Court in ***Government of NCT of Delhi vs. Veerwati, 2012 SCC OnLine Del 1444***, and its connected LPAs, held that there are four requisite conditions for consideration while filing and adjudicating the application for allotment of alternative plot. The relevant portion of the judgment is reproduced hereunder:-

“3. In the year 1961 the Government formulated the scheme for allotment of alternate plots to those land owners whose land is acquired for planned development of Delhi and the land so acquired is



placed at the disposal of the DDA. The allotment of alternate plot under this policy was subject to his satisfying, beside others, following conditions:—

a) The application must have been filed within a period of one year from the date of receipt of the compensation.

b) He should be recorded owner of the acquired land prior to the date of issuance of the Notification under Section 4 of the Act.

c) He must have received the compensation for the said land as a rightful owner and the possession of the acquired land has been taken by the Government.

d) Neither he nor his spouse nor any of his dependent children own any residential property in Delhi.”

19. The conditions stipulated in this matter have stemmed from the Scheme of 1961 and its subsequent amendments and hence, have to be given foremost importance while making an application for allotment of alternative plot and while its consideration by the concerned authority.

20. Upon receiving and considering the application of the petitioner, the concerned department carried out the necessary inquiry to adjudicate upon the application of the applicant and upon such enquiry, by the report of Halqa Patwari it was found that the entire land of the petitioner was not acquired and he had certain portion of land left with him which made him ineligible for consideration of his application for allotment of alternative plot. The petitioner was clearly not rendered landless after the land in question was acquired. As per the Scheme, and as per the interpretations



of the Division Bench of this Court in the aforementioned matter, it is found that as long as an applicant is left with a part of his land or owns an alternative accommodation, the fact whether the same is inside or outside village *abadi* area would be irrelevant.

21. An examination of the objective of the Scheme read with the observations made in the abovementioned judgments of the Hon'ble Supreme Court as well as this Court, definitively and unambiguously indicate that the Scheme of 1961 is targeted to those individuals, villagers, farmers etc. who may be rendered homeless or landless upon their land being acquired by the Government, or any Authority under it, for the purposes of development. The very structure of the Scheme suggests that it is a welfare and rehabilitative measure for those affected by the actions taken in the process of development of the State of NCT of Delhi. Being considered for compensation, whether monetary or in the form of alternate plot, is an entitlement which is available to individuals who fulfil the criteria provided for under the Scheme. Those who lose their homes or their agricultural lands, that are the only source of their livelihood, are the custodians of schemes like these and rightly so need to be facilitated as soon as possible. Such individuals, owners, villagers, farmers and their families cannot and should not be left remediless after their land is acquired. However, it should also be borne in mind that in garb of such welfare schemes, those who have alternative and effective means of sustaining a life do not take unfair advantage of the schemes and welfare provisions of the Government and its Authorities.

22. Since, the very purpose of the scheme for allotment of alternative plot is to provide for those who do not have any land left, residential or



agricultural, subsequent to their land being acquired, and even the conditions laid under the Scheme provide for the ineligibility on account of ownership of a land, it is found that the case of the petitioner does not fulfil the eligibility criteria and hence, he was rightly found not entitled to the alternative accommodation under the Scheme.

23. Keeping in view the observations and discussions in the foregoing paragraphs and the facts and circumstances, it is found that there is no error apparent on the face of record or any gross illegality in the impugned communication dated 20th September 2019 passed by the concerned authority while deciding the application for allotment of alternative plot.

24. This Court does not find any merit in the instant petition since the petitioner cannot claim a benefit that does not accrue to him. Accordingly, the instant petition is dismissed.

25. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 15, 2022
gs/ms