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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 21 January 2022**+ **W.P.(C) 14581/2021****SATISH CHAND & ORS.**

..... Petitioner

Through: **Mr. Lalit Bharadwaj, Adv.**

versus

DEPUTY COMMISSIONER NORTH WEST & ORS.

..... Respondents

Through: **Mr. Anupam Srivastava, Adv. for R-1.****Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for R-2.****CORAM:****HON'BLE MR. JUSTICE YASHWANT VARMA****YASHWANT VARMA, J. (ORAL)****[VIA VIDEO CONFERENCING]**

1. Having heard learned counsels for parties, the Court finds no merit in the challenge as raised to the order impugned.

2. The petitioner had essentially raised the prayer for being granted an alternative plot in lieu of acquisition in terms of the Policy of Rehabilitation as was framed by the respondents. The land of the petitioner came to be acquired pursuant to a notification issued under Section 4 of the Land Acquisition Act, 1894 on 12 August, 1997. The Award was rendered on 9 September, 1999 and possession taken over on 13 November, 1997. Undisputedly, although the total land which stood recorded in the name of the petitioner measured 27 bighas and 17 biswas, only 12 bighas and 09 biswa was acquired. It was in the aforesaid backdrop that the respondents have proceeded to refuse the prayer as made bearing in mind the following pertinent observations as were entered by the Supreme Court in **Delhi**

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Development Authority Vs. Jai Singh Kanwar & Ors. [Civil Appeal No. 8289 of 2010]:-

“5. We find that the High Court has not addressed the crucial and fundamental issue relating to eligibility. Under the Scheme, only a land loser who did not own a house/residential plot/flat in his own name or in the name of his spouse or dependent relation, and who was not a member of any Co-operative Housing Society was entitled for allotment of plot. The relevant date for this purpose is the date of award, namely, 24.11.1969. Chhajju Singh did not make an application under the said Scheme even though he was alive till 1976. Among his six sons, only one son made an application on 4.12.1985 sixteen years after the award.

6. Neither the application nor the documents produced by the applicant Om Singh Kanwar averred or established that Chhajju Singh did not own a plot or flat or residential house and that he was not a member of any Co-operative Housing Society. In the circumstances, the fundamental requirement for making an application was absent. The object of the Scheme is that when the land owned by a person is taken away in entirety and he is left without any house or plot, he should be allotted a plot. The Scheme therefore provided that only a person who does not own a house/residential plot/flat will be entitled to apply. The first respondent did not deny the fact that the Chhajju Singh did own a house in the year 1969. That apparently is the reason why he did not apply under the scheme. Nearly a decade after his death, an application was made by one of his sons. But what is to be considered is the position of the land loser on the date of the award. Therefore the appellant, who is one of the grand sons of Chhajju Singh is not entitled to seek allotment of a plot under the scheme by suppressing the fact that Chhajju Singh owned a house in 1969.

8. Subject to the said observation, these appeals are allowed and the judgment dated 22.4.2008 of the High Court is set aside and the writ petition seeking allotment of a plot is dismissed.”

3. Of equal significance are the following observations made by the Full Bench of this Court in **Ramanand Vs. Union of India and others** [(1993) 26 DRJ 594 (F.B.)]:-

“27. Lastly, on the basis of certain observations made in a Full Bench decision of this Court in *Shiv Devi v. Lt. Governor, Delhi*, 1986 R.L.R. 557, it was contended that it is in public interest that individuals who have lost their land as a result of acquisition should be given alternative accommodation, and that it is the duty of the State to give the same. In



our opinion, observations to this effect were made, in paras 20 and 21 of the judgment, for explaining the beneficial object of the scheme for allotment of alternative plots, in a different context. In that case, reference to the Full Bench was made on the question as to who is entitled to the benefit of allotment of a plot on the acquisition of land. This question had arisen in the light of three phases of acquisition proceedings envisaged under the Land Acquisition Act, namely, when the notification under Section 4 is issued, when the declaration under Section 6 is made, and when the land is actually acquired by making an award. Earlier, the view taken by various Benches was that individuals whose land has been acquired would be considered for allotment of an alternative plot for residential purpose in certain circumstances. Then, in *Krishan Kumar Manik v. Union of India and others*, it was held that the person who owned the land at the time when the notification under Section 4 was issued, and not the subsequent transferees, would be entitled to apply for an alternative plot. The Full Bench disagreed with the view taken in *Krishan Kumar Manik's case* and confirmed the view taken earlier that individuals whose land had been acquired would be "entitled to be considered" for allotment of a plot "in certain circumstances". It was further held that any one whose land has been acquired "is entitled to apply" for allotment of an alternative plot. The observations made in this judgment really go against the proposition sought to be advanced on behalf of the petitioner.

28. As a result of the above discussion, we find that an individual whose land has been acquired for planned development of Delhi, has no absolute right to allotment, but, he is eligible to be considered for allotment of an alternative plot for residential purposes; and that the DDA may allot Nazul land to such an individual, in conformity with the plans and subject to other provisions of the Nazul Rules."

4. Bearing in mind the principles enunciated in the aforementioned two decisions, the Court finds no merit in the challenge raised.
5. The writ petition fails and shall stand dismissed.

YASHWANT VARMA, J.

JANUARY 21, 2022
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