



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

% **Date of order : 5<sup>th</sup> September 2022**

+ **W.P.(C) 12589/2019 & CM APPL. 51424/2019**

**SH. MANOJ YADAV** ..... Petitioner

Through: Mr. Ram Kumar, Advocate

versus

**LAND AND BLDG, DEPTT GNCTD** ..... Respondent

Through: Mr. Rajneesh Sharma, Advocate

**CORAM:**

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

**ORDER**

**CHANDRA DHARI SINGH, J (Oral)**

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

*“a) Issue a writ of mandamus or any other suitable writ, order or direction in like nature thereby issuing the direction to the Pr. Secretary, (Land & Bldg.Deptt) to issue the recommendation letter for allotment of alternative plot in favour of petitioner in lieu of acquisition of petitioner's land from village Jwala Heri*

*b) And set aside and declare impugned letter dated 27.01.2014 and 20.09.2018 null and void*

*c) Issue any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.”*



2. Learned counsel appearing on behalf of the petitioner submitted that in lieu of acquisition of his plot, the father of the petitioner, Rishal Singh Yadav, applied for allotment of alternative plot vide application dated 1<sup>st</sup> May 1989. The said application was rejected vide letter dated 27<sup>th</sup> January 2014 on the ground that due to non-submission of documents the eligibility of the applicant could not be ascertained. It is submitted that the said rejection letter was issued after the death of Rishal Singh Yadav and despite having submitted all necessary documents at the time of the application itself. The original applicant submitted his affidavit, specimen signatures and duly attested photographs, copy of Ration Card, Village Jwalaheri, payment certificate dated 22<sup>nd</sup> July 2003 issued by Office of the ADM/Land Acquisition alongwith the application for allotment of alternative plot to the Land and Building Department and yet his application was rejected on the ground of non-submission of documents. It is submitted that the brothers of Rishal Singh Yadav have also been allotted alternative plots by the Land and Building Department, however, the application of the petitioner's father was rejected.

3. It is submitted that meeting of Recommendation Committee was held on 4<sup>th</sup> September 2013 under the chairmanship of Additional Secretary (Land & Building) where it was decided by the Committee that last opportunity may be given to submit the required documents in respect of the following deficiencies latest by 3<sup>rd</sup> October 2013 failing which the case will be decided on the basis of available record/ submitted replies, however, the father of the petitioner had already passed away in the year 2005. It is further submitted that the petitioner made an RTI



Application in reply to which he came to know about the rejection of application dated 1<sup>st</sup> May 1989.

4. It is submitted that on behalf of the petitioner that a subsequent letter was sent to the Deputy Secretary Land and Building Department on 2<sup>nd</sup> August 2018, however, in response to same on 20<sup>th</sup> September 2018, it was intimated to him that his case had been examined and found to be already rejected vide letter no. F31(36)01/89/L&B/ALT/17397 dated 24<sup>th</sup> January 2014.

5. It is submitted that both the communications dated 24<sup>th</sup> January 2014 and 20<sup>th</sup> September 2018 are liable to be quashed since the concerned authority did not consider that the documents required were already on the record of Land and Building Department and rejected the application for alternative plot on the ground of non-submission of documents.

6. *Per Contra*, the learned counsel appearing on behalf of the respondent submitted that the respondent had rightly rejected the application for allotment of alternative plot of the father of the petitioner since the applicant failed to furnish the requisite documents.

7. It is submitted that reminders for submission of documents were also communicated in the name of the applicant, including vide letter dated 19<sup>th</sup> September 2013, even then the requisite documents were not furnished to the concerned authority and the case of the applicant could not be ascertained and was hence, rejected. It is submitted on behalf of the respondent that the instant petition is devoid of any merit and hence is

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liable to be dismissed.

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

9. 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.

10. 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: ....”*

11. 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.”*

12. 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....”*

13. 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 letters dated 24<sup>th</sup> January 2014 and 20<sup>th</sup> September 2018.

14. This Court has perused the rejection letter No. F.31(36)/01/89/L&B/ Alt./17397 dated 27<sup>th</sup> January 2014 and the relevant portion of same is reproduced hereunder for proper adjudication of the instant petition:-

*“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 13/12/2013 and the Committee observed that the applicant Shri Risal Singh applied for allotment of alternative plot in lieu of acquired land vide application dated 01.05.89 situated in village Jwalaheri. The applicant vide this office various letters of even numbers and latest letter of even number dated 19.09.2013 was requested to submit the requisite documents but no reply has been received yet. 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.”*

15. The process for allotment of alternative plot is outlined under the Scheme dated 2<sup>nd</sup> May 1961 for “Large Scale Acquisition Development & Disposal of Land in Delhi” (hereinafter “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.

16. The respondent vide its communication dated 19<sup>th</sup> September 2013, which is appended to the petition as Annexure P-6, addressed the father of the petitioner, original applicant, asking him to submit the documents required for proper consideration of his case for allotment of alternative plot. The relevant extract of the said letter 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 the acquired land has been placed before the Recommendation Committee in its meeting held on 04/09/2013. As per the observation of the Committee you are requested to furnish the following documents/information:-*

***1. Copy of High Court order***

*You are, therefore, once again requested to submit the requisite documents/information to Dy. Secretary (Task Force/Alt.) by 03/10/2013 as last opportunity failing which your case shall be decided on the basis*



*of the available records. No further reference will be made in any manner in this regard.”*

17. Although the original applicant had expired in the year 2005, despite this intimation, the petitioner also did not approach the concerned authority with the required documents, i.e., the aforesaid Copy of High Court Order. The said High Court Order was required for the Recommendation Committee to ascertain whether an Award had been made in favour of the original applicant, if yes, what was the quantum of such Award and subsequently, the nature of alternative plot to be allotted to him, if any. However, the petitioner failed to furnish the said documents after the death of his father, the original applicant.

18. The petitioner further alleged that there was no communication made to him by the respondent, however, he did not approach the concerned authority to intimate it about the death of the recorded owner and the original applicant, i.e., his father, and did not furnish the requisite documents despite having been served the letter laying out the requisite documents for consideration of the case of the applicant for allotment of alternative plot. Therefore, the rejection of the application for allotment of alternative plot cannot be said to be in contravention of any law, or illegal, improper or erroneous on the face of record.

19. The petitioner is also assailing the letter No. F.31(36)01/1989/L&B/Alt./4761 dated 20<sup>th</sup> September 2018, whereby his subsequent representation dated 2<sup>nd</sup> August 2018 was replied to. The concerned authority in this communication reiterated that the case of the land of the original applicant and the petitioner in question had already



been examined and been rejected after evaluation and after being given opportunity to furnish the requisite documents. The concerned authority while replying to the representation of the petitioner did not make any such observation which was illegal or erroneous on the face of record.

20. 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 letters/rejection orders do not suffer from any gross illegality or any error apparent on the face of record which would warrant interference by this Court. The petitioner, after the death of this father by the communications addressed to him, 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.

21. Accordingly, this Court finds that there is no merit in the challenge to the impugned letters and therefore, the instant petition is dismissed.

22. Pending application, if any, also stands disposed of.

23. The order be uploaded on the website forthwith.

**(CHANDRA DHARI SINGH)**  
**JUDGE**

**SEPTEMBER 5, 2022**

*Aj/MS*