



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

% **Date of order : 29th August, 2022**

+ **W.P.(C) 2379/2018**

GIAN CHAND

..... Petitioner

Through: **Mr. Mohinder Singh and Mr.
Ankur Goel, Advocates**

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: **Mr. Siddharth Panda, Advocate**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant civil writ petition under Article 226 of the Constitution of India seeking the following reliefs:-

“(a) Issue a Writ of Certiorari and quash the Communication No. F.33(27)/5577/10/L&B/Alt. 15892 dated 06.03.2017 sent by the Respondent to the Petitioner;

(b) as a consequence thereto issue a Writ of Mandamus and direct the Respondent to allot an alternative plot to the Petitioner as per the entitlement in terms of his application dated 26.05.2010;

(c) such other and further order as this Hon'ble Court may deemed fit and proper be passed in of the Petitioner and against the Respondent.”

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2. The petitioner is one of the recorded owners of the agricultural land admeasuring 1448.01 bighas situated in revenue estate of Village Burari, Delhi. The said area was acquired by the Government by Notification dated 18th July 2003 under Section 4 of the Land Acquisition Act, 1894, (hereinafter “LA Act”) for development of Bio-Diversity Park Phase-II. In pursuance of the acquisition, Award No. 2/LAC/N/05-06 was also made. As per office order of Land Acquisition Collector (hereinafter “LAC”) dated 9th August 2001, the rate of land at Rs. 15.70 lakhs per acre was fixed on the basis of Government Circular Rates. The land was then divided into two categories i.e. Category ‘A’ and Category ‘B’. The rate of land in Category A was fixed at Rs. 15.70 lakhs per acre and rate of the land in Category- B was fixed at Rs.5.05 lakhs per acre. Pursuant to several rounds of litigation, the market value of the land situated in Village Burari was enhanced and ultimately, fixed at 9% p.a. enhancement from the date of judgment of a Coordinate Bench of this Court on 17th December 2014.

3. The petitioner applied for allotment of an 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 26th May 2010. The said application of the petitioner was rejected by the respondent vide communication no. F.33(27)/5577/10/L&B/Alt.15892 (hereinafter “impugned letter”) dated 6th March 2017 on the ground that the petitioner had already received the compensation on 29th June 2006 in lieu of the acquisition and that his application was beyond the stipulate time.



4. The petitioner is before this Court assailing the said rejection communication.

5. The learned counsel appearing on behalf of the petitioner submitted that in lieu of the acquisition the rate of land at Rs. 15.70 lakhs per acre was fixed on the basis of Government Circular Rates. However, the petitioner was not satisfied with the said Award and approached the concerned LAC under Section 18 of the LA Act seeking reference against the amount of the Award, whereby, the rate of land was increased @11.5% by the Reference Court enhancing the amount from 15.70 lakhs to Rs. 19,20,568/-.

6. It is submitted that aggrieved by the order of the Reference Court, the Union of India approached this Court and a Coordinate Bench of this Court in LA Application No. 298/2009. Vide common order dated 7th June 2011 in LA Application No. 971/2008 & CM No. 4135/2009 (Cross objection) which included LA Application No. 192/2009, a Coordinate Bench of this Court accepted the Government's Order dated 9th August 2011 as basis of fixing the market value, thus agreed with the approach of the Reference Court by giving of enhancement of 11.5% per annum thereby granting compensation of Rs.19,20,568/- per acre. However, High Court categorized the lands into Category 'A' and Category 'B'. The above said compensation was maintained for Category 'A', in so far as Category 'B' is concerned, the said figure was reduced by 10% hereby arriving at the market value of Rs.17,28,512/-. This common order was also referred to by the Coordinate Bench of this Court in LA Application



No. 298/2009 and vide its order dated 8th November 2011 passed the order against the order of Reference Court for improvement.

7. Learned counsel for the petitioner submitted that aggrieved by the order dated 8th November 2011, the petitioner filed SLP (C) No. 21907/2012, which was treated as a Civil Appeal, bearing No. 5430/2012 and while disposing of the said case the Hon'ble Supreme Court vide order dated 17th December 2014 fixed the market value of the land in question at Rs. 20,20,568/- uniformly without categorization of the land. The petitioner approached the District & Sessions Judge, Central District, Tis Hazari Courts, by way of filing Execution Petition No. 123119/2016. It is submitted that the application for allotment of alternative plot was made by the petitioner during the pendency of the proceedings relating to enhancement of the value of the land in question and its execution thereof, and hence, his application for allotment of alternative plot was within the stipulated time.

8. Learned counsel for the petitioner submitted that the compensation was not finalized till 29th June 2006, since the petitioner had filed execution proceedings before the District & Sessions Court only on 5th February 2016, which remained pending and the compensation had not been received by the petitioner till then.

9. It is submitted that there is no stipulated time for filing an application for allotment of alternative plot. The application in the instant case was filed during the pendency of the proceedings of enhancement of compensation as well as payment of compensation. The rejection of the



application of the petitioner by the respondent is thus liable to be quashed.

10. *Per Contra*, learned counsel appearing on behalf of the respondent opposed the submissions made on behalf of the petitioner. The counter affidavit on behalf of the respondent is on record and objections have been raised therein. It is stated that respondent department issued land acquisition notification vide No. F.11(30)3/L&B/LA dated 18th July 2003 and 8th January 2004 to acquire the land for the public purpose of plan development of Delhi and accordingly, land bearing Khasra No.116/2/2B(1-12), 9B(4-12), 12/1B (3-00), 129/2/1B (2-00) situated at Burari Village, Delhi admeasuring 11 Bighas 04 Biswas (1/5 share) was acquired vide Award No. 2/LAC/N/05-06 dated 7th January 2006.

11. It is submitted that In lieu of the acquired land, the petitioner has received the market value of land, 30% Solation and 12% additional amount in charging other stating benefits and the petitioner received the amount of Compensation vide cheque No.0919752 dated 29th June 2006. The petitioner filed the application of allotment of alternative plot only on 26th May 2010, which was beyond the stipulated time of one year from the date of Award. The petitioner has filed the application after a significant delay of 4 years and hence, his application was rejected on the ground of limitation.

12. Learned counsel for the respondent submitted that allotment for alternative plot cannot be sought as a matter of right and the petitioner had to meet the requisite conditions for application to be considered by



the concerned authority. Reliance has been placed upon ***Ramanand vs. Union of India, 1993 SCC OnLine Del 397***, wherein the following observations were made by a Coordinate Bench of this Court:-

“40. We hold that an individual, whose land is acquired, does not have an absolute right to the allotment of alternative plot of land for residential purposes, and that such a person is only eligible to be considered for allotment of a plot, subject to certain conditions.”

13. The learned counsel for the respondent submitted that the application of the petitioner was rejected upon being found barred by limitation since he approached the concerned authority after a lapse of 4 years and not within the time stipulated for the filing of application for allotment of alternative plot, that is, one year from the date of receiving compensation. It is submitted that therefore, there is no merit in the challenge against the impugned letter rejecting the application of the petitioner and the instant petition is liable to be dismissed.

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

15. At the very outset, it is deemed necessary that the impugned letter rejecting the application of allotment of alternative plot be looked into. The relevant portion of the letter dated 6th March 2017 is reproduced hereunder-

“With reference to the above-mentioned subject, I am directed 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 24.08.2016 and it was observed



that the applicant vide this office letter No. 7359 dated 19.08.2016 was requested to appear before the Recommendation Committee for personal hearing 24.08.2016 at 2:00 PM. In response to said letter Shri Gian Chand appeared and was heard by the Committee. On perusal of record, the Committee observed that as per payment certificate the applicant received the payment of compensation on 29.06.2006 and filed the application on 26.05.2010 which is beyond the stipulated time. Hence the case is REJECTED being time barred."

16. Upon perusal of the contents of the impugned letter, it is found that the primary ground taken by the concerned authority was that the application seeking allotment of alternative plot was filed by the petitioner beyond the stipulated time period and hence, was barred by limitation.

17. The land in question was acquired in the year 2003, for the purpose of development, and the original Award for the acquisition was given by the LAC vide Award No. 2/LAC/N/05-06. Although, the petitioner had challenged the said Award and sought increment in the same, it has not been denied that the petitioner received compensation in lieu of the acquisition on 29th June 2006, as per the original market value of the land in question. It was only subsequent to the passing of the Award, that the petitioner approached the Reference Court and thereafter, the Hon'ble Supreme Court that the compensation was enhanced. The disputed fact which now remains is whether the limitation for filing the application for allotment of alternative plot would operate from the date of the original Award or from the date on which it was enhanced. However, the extent to



which this Court shall exercise its powers under Article 226 of the Constitution of India is limited to examining the legality, validity and propriety of the impugned letter and not appreciation of evidence and investigation into the disputed facts.

18. As per the mandate of the Scheme of 1961, the application for allotment of alternative plot has to be made in accordance with the conditions laid therein. These conditions not only specify the eligibility criteria but also provide for the limitations that need to be considered while adjudicating upon application for allotment of an alternative plot. The concerned authority, while issuing the impugned letter, noted that the stipulated time, which operates from the date of the Award and the receiving of the compensation by the applicant, started from the day when the compensation was received by the petitioner, that is, on 29th June 2006, and operated for one year thereafter. However, the petitioner did not approach the concerned authority for succeeding four years and it was only in the year 2010 that he moved the application for the alternative accommodation.

19. 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.”*

20. 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.

21. Therefore, giving due consideration to the conditions stipulated under the Scheme of 1961 and the conditions laid out in ***Veerwati (Supra)***, it is found that the observations of the concerned authority regarding limitation cannot be held to be perverse or illegal since, the Scheme throughout the years of it being in operation has been interpreted in a manner so as to accommodate the interests of the persons whose lands are acquired while also working in consistence with the guidelines



and principles laid down in it and while keeping the objectives of the Scheme in the lead. The petitioner should have applied for the alternative plot within one year from the date of the Award and the compensation being received by him. The limitation did not operate from the date of the decision on enhancement of the Award since it was merely an extension of the original Award. The enhanced Award was to be paid to the petitioner at a fixed percentage increment of the original compensation amount and therefore, the base Award remained the one which was originally made in the favour of the petitioner on 29th June 2006. An enhancement of compensation cannot be said to be an Award in itself.

22. Keeping the scheme and objectives of the Scheme of 1961 and the conditions laid, therein, in mind, it is found that any application beyond the said stipulated time not only made the petitioner ineligible to apply but also barred his application to be considered in the absence of any exceptional circumstances.

23. Therefore, in light of the facts and circumstances, the contents of the impugned letter in the background of the Scheme of 1961, and the observations as aforementioned, it is found that the communication no. F.33(27)/5577/10/L&B/Alt.15892 dated 6th March 2017 does not suffer from any illegality, impropriety or error apparent on the face of record. The petitioner failed to approach the concerned authority for application of allotment of alternative plot within the stipulated time and hence, his application was rightly rejected after giving him an opportunity of hearing.



24. Accordingly, the instant writ petition is dismissed since this Court does not find any merit in the challenge to the impugned letter.

25. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

AUGUST 29, 2022
gs/ms

