



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

% **Date of order: 19th September, 2022**

+ **W.P.(C) 3485/2017**

RAGHUBIR & ANR Petitioners

Through: **Mr. Prasoon Kumar, Advocate**

versus

THE SECRETARY, DEPARTMENT OF LAND AND

BUILDING (ALT) Respondent

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

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

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

“a) Issue a writ of mandamus /appropriate writ to the satisfaction of this Hon'ble Court directing the Respondent to make a recommendation of alternative plot out of award bearing No. 1/93-94 dated 02.04.93 i.e. post 03/04/1986 228/86-87 as per law.

b) Direct the Respondent to observe due process of law and to abide by the rules and regulations provided under Law...”

FACTUAL MATRIX

2. The land of the Petitioner no. 1 was acquired in village Kakrola

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vide notification dated 2nd April 1993 under Section 4 of the Land Acquisition Act, 1894. The possession of the land was taken over and handed over to the beneficiary department on 26th August 1992. The compensation was paid to the Petitioners on 21st May 1993. The application for allotment of alternative plot was submitted by the Petitioner no.1 on 31st January 1994.

3. The case was considered by the Committee on 27th December 2012, and it was observed that the land of the applicant was acquired vide Award No. 1/93-94 dated 2nd April 1993 i.e., post 3rd April 1986 and the applicant is having 1/7th share against acquired land of 4 bighas and 12 biswas, which is less than 1 bigha. So, as per the policy, the applicant did not fulfil the requirement for consideration for allotment of alternative plot in lieu of acquired land and hence, the application for allotment land was rejected. This decision of the Committee was conveyed to the Petitioner no.1 vide office letter dated 6th February 2013.

4. All the surviving members then relinquished their share vide Relinquishment Deed dated 23rd August 2014 in favour of the Petitioner no.1 to increase his share beyond 1 bigha and consequently, become eligible for allotment of alternative plot as per the policy of the Respondent.

5. The Petitioners then again approached the Respondent for allotment of alternative plot stating that the remaining legal heirs and members having shares in the land have relinquished their respective shares in favour of Petitioner no.1 and hence now there is no impediment



in allotment of alternative plot in the favour of Petitioner no.1 as his share is now more than 1 Bighas.

6. Aggrieved with no response from the Respondent, the Petitioners served legal notice dated 22nd September 2014 to consider the case of the Petitioners. Since, no response came from the Respondent, Petitioner no.1 filed a writ petition bearing no. 7839 of 2014 seeking a direction to the Respondent herein to respond to the legal notice dated 22nd September 2014. A Coordinate Bench of this Court disposed of the writ petition with a direction to the Respondent to consider the notice of the Petitioner therein. For the sake of brevity, the relevant portion has been reproduced below:

“7. Keeping in view the averments made in the instant petition and the submissions made by learned counsel for the petitioner, the respondent is directed to respond the notice and corrigendum notice dated 22.09.2014 and 17.10.2014 respectively within a period of two months from today.”

7. Aggrieved by the inaction of the Respondent despite a judicial order, the Petitioner no.1 filed a contempt petition bearing CONT.CAS(C) No. 357/2015 on 13th April 2015. A Coordinate bench of this court disposed of the contempt petition with the following observations:

“Learned counsel for the respondent has handed over the copy of the letter dated 29th February 2016 in terms of the order dated 14th November 2014. The same is taken on record. Copy of the same has handed over to learned counsel for the petitioner who seeks permission to withdraw this petition with liberty to challenge the letter dated 29th February 2016.



The petition is dismissed as withdrawn with liberty as prayed for.”

8. Vide letter dated 29th February 2016, the Respondent rejected the case of the Petitioners represented vide legal notice dated 22nd September 2014, observing that the relinquishment deed in favour of the Petitioner no.1 was not registered but has only been notarized and as such did not confer any right on the Petitioner no.1.

9. Thereafter, the Petitioners got the relinquishment deed executed on 15th September 2016 by all interested parties in favour of the Petitioner no.1 and got the same registered on 17th September 2016 before the office of sub-Registrar IX New Delhi vide Registration no. 7224 , Book no. 1 , Vol. No. 8831 on page 195 to 199.

10. After this, the Petitioners served another legal notice dated 8th October 2016 to the office of the Respondent, annexing the registered relinquishment deed for allotment of alternative plot. Aggrieved with no response from the Respondent, the Petitioners have approached this court by way of the instant writ petition.

SUBMISSION ON BEHALF OF THE PARTIES

11. Learned counsel appearing on behalf of the Petitioners has contended that as per the policy of the Respondent, the Petitioners have fulfilled all the requirements for allotment of alternative plot and despite that no action has been taken for reasons best known to them and hence, the Respondent are sleeping over the subject.



12. It is further contended that the right to alternative plot is a legal right provided by the law of the land and also under the provisions of the Urban Land (Ceiling and Regulations Act), 1976. It is also contended that the Respondent has a legal duty to make recommendation of an alternative plot to the persons whose land have been acquired by the Respondent. So, by not allotting an alternative plot, the Respondent has failed in their legal duty.

13. *Per Contra*, learned counsel appearing on behalf of the Respondent has contended that the application of the Petitioner no.1 was rejected on 27th December 2012 and the said order is still in force and has attained finality as it has not been set aside by any judicial pronouncement. Therefore, the Petitioners are not eligible for allocation of any alternative plot.

14. It is further argued that the relinquishment deed is a subsequent act on the part of Petitioners after the decision has been taken by the Respondent on the application of Petitioners and as such these documents cannot be taken into consideration for reviewing the order passed in his application.

15. Learned counsel for the Respondent has relied on a decision of a Division Bench of this Court in ***Sunder Singh vs. Union of India, 2009 (2) AD (Delhi) 809*** to contend that the object of policy regarding allotment of alternative plot is to meet the immediate requirement of the displaced persons, who fulfils other conditions. Thus, the land owners are required to apply for the allotment of alternative plot at the earliest



possible opportunity so that their immediate requirement is satisfied. He has also relied on a Full Bench decision of this Court in ***Ramanand v. Union of India & Ors.***, AIR 1994 Delhi 29, to contend that the land owner whose land is acquired does not have the vested right to seek allotment of alternative plot in view of the law laid down he is only entitled to be considered for such allotment if he satisfies the other conditions. The purpose of the said policy is to provide one residential house to the person, who is in need of the same.

16. Heard learned counsel for the parties and perused the record including the rejection orders dated 6th February 2013 and the Scheme of 1961 regarding allotment of alternative plot.

FINDING AND ANALYSIS

17. At the outset, it is pertinent to outline the objectives of the Scheme of 1961 which pertains to allotment of alternative plot to those whose lands have been acquired by the Respondent.

Objective of Scheme of 1961

18. 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 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. 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”

19. 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 Virley 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”

20. Further, in ***Surinder Singh Mann vs. Government of NCT of Delhi, W.P.(C) 12306/2015***, 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.”

21. A Coordinate Bench of this Court ***Amrit Kumari vs. Asst. Housing Commissioner & Ors***, 2016 SCC OnLine Del 1624, also held that a scheme for allotment of alternative plots is purely a welfare scheme formulated to rehabilitate the farmers whose land had been acquired.

22. 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”.



23. 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.

Rejection/Impugned Order

24. I find force in the arguments of the Respondent that the Scheme for alternative plot does not confer a direct and absolute right to any person whose land is acquired. The said Scheme provides for conditions which 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. The relevant portion of which is reproduced below for the sake of brevity:

- a) The applicant must be recorded owner of the acquired land on the date of section 4 notification of the Land Acquisition Act.*
- b) The applicant must have received the compensation as a rightful owner from the Land Acquisition Collector of the said land.*
- c) Neither he nor his spouse or any of his dependent children own any residential property in Delhi.*
- d) WHERE THE ACQUIRED LAND IS ANCESTRAL*
 - i. The persons who are RECORDED OWNER prior to issue of notification u/s 4 of Land Acquisition Act.*
 - ii. The persons whose lands have been acquired must have received the compensation as rightful owners from the LAC/Court and the Govt has taken the possession of acquired land.*



iii. The applicants should not own a house/residential plot/flat out of village abadi in his/her dependent relation's name including unmarried children, nor he should be a member of any Co-operative Housing Society.

iv. For awards announced prior to 3.4.86, the land acquired is not less than 150 sq.yds. and for awards announced post 3.4.86, the land must not be less than one bigha.

25. In the instant matter, the ground on which the application of the Petitioner no.1 was rejected by the Respondent was that Petitioner no.1 holds 1/7 share of the acquired land which comes out to be less than 1 bigha and hence as per the policy of the Respondent any applicant having share less than 1 bigha of land is not entitled to allotment of alternative plot. The relevant portion of the order is reproduced below:

“With reference to the above-mentioned subject, it is to inform you that your case for alternative plot in lieu of acquired land has been place before the recommendation committee held on 27/12/2012, the committee observed the land of the applicant has been acquired vide Award No 1/93-94 dated 02/04/93 i.e. post 03/04/1986 and the 1/7 share of the applicant against the acquired land (4-12) is less than 1 Bigha and as per policy does not fulfill the requirement for consideration for allotment of alternative plot in lieu of acquired land hence the committee rejected the case.”

26. 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

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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, which 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 the garb of such welfare schemes the quintessential conditions required for invocation of the same cannot be given a blind eye.

27. Therefore, on perusal of the records it cannot be gainsaid that the Respondent has rightly rejected the application of the Petitioner no.1, as one of the essential conditions for allotment of alternative plot was that the land acquired with the applicant must not be less than one bigha which was not satisfied in the case of the present Petitioners.

28. Moreover, as per the 1961 Policy as modified from time to time, the application for allotment of alternative plot must have been filed within one year from the date of receipt of the compensation. This has also been noted by a Division Bench of this Court in ***Government of NCT of Delhi vs. Veerwati*, 2012 SCC OnLine Del 1444**. 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....”*

29. In the instant matter, admittedly the Petitioners have served a legal notice to the Respondent in 2014, in the form of a second application for allotment of alternative plot requesting them to consider the case of the Petitioners. Therefore, in the opinion of this Court the Respondent is not bound to grant the application of the Petitioners even though the Petitioners have now satisfied all the requirements for allotment of alternative plot as the Respondent is not bound to consider multiple applications on the same subject more so, when the subsequent application is a result of afterthoughts and is also barred by limitation.

30. A fortiori is that the rejection order 27th December 2012 has now attained finality as the same has not been challenged before any competent judicial forum.

31. Furthermore, the Petitioner no.1 after getting registered the relinquishment deed in his favour did not approach the Respondent rather they considered serving a legal notice to the Respondent as a better mode of seeking redressal. In the opinion of this Court, a legal notice served cannot be considered as equivalent to a valid representation being made to an Authority.



CONCLUSION

32. This Court does not find any merit in the instant writ petition on threefold grounds:

First, the rejection order dated 27th December 2012, communicated to the Petitioners vide office letter dated 6th February 2013, has neither been challenged in the present writ petition nor has been a subject of challenge in any other judicial forum on any instance. Therefore, it has attained finality.

Secondly, the second application of the Petitioners was submitted by way of a legal notice which cannot be considered as a valid representation made to the Respondent.

Thirdly, Respondents are not bound to consider multiple applications on the same subject matter, more so when the subsequent applications are barred by limitation.

33. Therefore, the Petitioners cannot claim a benefit that does not accrue to them. Accordingly, the instant writ petition being devoid of merits is dismissed.

34. Pending applications, if any, also stand dismissed.

35. The order be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 19, 2022

Dy/mg