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

% *Decided on: 23rd May, 2023*

+ W.P.(C) 2971/2022

NARENDER KUMAR

..... Petitioner

Through: Mr. Ashutosh Rana, Advocate
(M:7838463577)

versus

GOVT OF NCT DELHI & ORS.

..... Respondents

Through: Mr. Anupam Srivastava, ASC
for GNCTD with Mr. Ujjwal
Malhotra & Ms. Sarita Pandey,
Advocates for R-
1(M:9811533855)
Mr. Nalin Hingorani, Mr. Biraja
Mahapatra, Advocates for R-2
and3 (M:9810935526)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for quashing of order dated 30.12.2021 passed by the respondent No.3, SDM (HQ) District North Delhi, Alternative Branch, Office at DM Office Complex, Alipur, Delhi-110036. By way of the said order, the application of the petitioner for allotment of alternative plot has been rejected.
2. Perusal of the order dated 30.12.2021 shows that the application of the petitioner for allotment of an alternative plot has been rejected on the ground that the wife of the petitioner has acquired a property in



her own name. Thus, it was recorded that since wife of the petitioner already owned a plot in her name on the date when the allotment was to be issued, the petitioner was not entitled to alternate plot.

3. The application was also rejected on the ground that the petitioner owns land in extended abadi.

4. It is the case on behalf of the petitioner that land which was owned by the petitioner, was sold by registered sale deed in the year 2001 whereas, acquisition of the land took place in the year 2005 and final possession was taken on 06.10.2005.

5. A perusal of the aforesaid clearly shows that the petitioner did not own any other land when the land in question of the petitioner was acquired.

6. Affidavit has been filed on behalf of the petitioner dated 24.02.2022 wherein it has been stated that the petitioner does not own any house/residential plot/flat in or out of village *abadi* either in his own name or in the name of his wife.

7. The affidavit filed on behalf of the petitioner is reproduced as under:

“ **AFFIDAVIT**

I, Sh. Narender Kumar S/o Govind Ram aged about 49 years R/o House No. 454, Village Barwala, Delhi-110039 do hereby solemnly affirm and declare as under:

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1. That I am the deponent in the captioned Writ Petition and thus well conversant with the facts of the case and competent to swear & file this affidavit.

2. That I do not own any house/residential plot/flat in or out of village abadi either in my own name or in my



dependent relation's name or in my wife's name, including unmarried children. That neither am I nor my wife or my unmarried children are member of any Co-operative Housing Society.

3. That I do not even own a house in Village Barwala, Delhi and currently I along with my wife and two children are residing in Village Barwala, Delhi at the house of my elder brother namely Sh. Ashok Kumar which is owned and is in the name of Smt. Dayawati who is the wife of my elder brother Sh. Ashok Kumar.

VERIFICATION:

Verified at New Delhi on this 24th day of Feb, 2022 that the contents of above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed therefrom. ”

8. Similarly, an affidavit has been filed on behalf of the wife of the petitioner, wherein it is categorically stated that the wife of the petitioner also does not own any property/house/residential plot/flat in or out of village abadi either in her own name or in the name of any dependent.
9. Affidavit filed on behalf of the wife of the petitioner is reproduced as follows:

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AFFIDAVIT
I, Smt. Savita W/o Sh. Narender Kumar aged about 46 years R/o House No. 454, Village Barwala, Delhi-110039 do hereby solemnly affirm and declare as under: -

- 1. That the deponent is the wife of the Petitioner in the captioned petition. That I am a housewife and neither employed nor working.*
- 2. That I do not own any house/residential plot/flat in or out of village abadi either in my own name or in my*



dependent relation 's name or in my husband's name, including unmarried children. That neither am I nor my husband or my unmarried children are member of any Co-operative Housing Society.

3. That I do not even own a house in Village Barwala, Delhi and currently I along with my husband and two children are residing in Village Barwala, Delhi at the house of my husband's elder brother namely Sh. Ashok Kumar which is owned and is in the name of Smt. Dayawati who is the wife of my husband's elder brother Sh. Ashok Kumar.

VERIFICATION

Verified at New Delhi on this 24th day of Feb, 2022 that the contents of above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing material has been concealed therefrom."

10. In view of the aforesaid, it is clear that the order dated 30.12.2021, denying the claim of the petitioner for alternate allotment has been rejected on a premise, which has been dispelled by the petitioner.

11. In view of the aforesaid, the order dated 30.12.2021 issued by the office of District Magistrate (North), Alternative Branch, Alipur, Delhi-110036, is set aside.

12. The matter is remanded back to the Sub-Divisional Magistrate (SDM) (North) to consider the case of the petitioner afresh.

13. It is directed that the petitioner shall be granted an opportunity to appear before the concerned authority, for which the respondent authority shall issue notice to the petitioner on the address as given in the memo of parties in the present case. Notice shall additionally be



also issued by the concerned Revenue Authority, to the Id. Counsel who is appearing for the petitioner.

14. It is directed that the petitioner shall be granted hearing and all the requisite documents that may be submitted by the petitioner, may be considered by the respondents at the time of considering the case of the petitioner. The respondent is at liberty to requisition any further documents from the petitioner, in case need be.

15. It is expected that the respondent authority shall consider the case of the petitioner expeditiously, preferably within a period of 6 months from today.

16. With the aforesaid directions, the present writ petition is disposed of.

MINI PUSHKARNA, J

MAY 23, 2023

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