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

% *Decided on: 25th May, 2023*

+ **W.P. (C) 7317/2023 & CM APPL.28477/2023**

DEVENDER SINGH Petitioner

Through: Ms. Suruchi Aggarwal, Mr.
Govinda Chaudhary And Mr.
Satpal Singh, Advs.

versus

LAND AND BUILDING DEPARTMENT AND ORS.

..... Respondents

Through: Mr. Sanjay Kumar Pathak,
Standing Counsel with Mr.
Sunil Kumar Jha, Mr. M.S.
Akhtar, Mrs. Nidhi Thakur,
Mrs. Renu V. Tegga and Mr.
Piyush Pathak, Advs.
(M:9910770311).

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL.28477/2023(Application under Section 151 of CPC for exemption from filing certified/original/dim copies of the annexures)

1. Allowed, subject to just exceptions.
2. Application is disposed of.

W.P.(C) 7317/2023

3. By way of the present writ petition the petitioner is challenging the order dated 17.03.2022 issued by the Deputy Commissioner (South West), which as per the petition, was communicated to the



petitioner on 13.10.2022. By way of the order dated 17.03.2022, the claims of the petitioner for allotment of alternate plot have been rejected. The reason for rejection of the claim of the petitioner is that the petitioner has an ancestral house in Molaband Extension, New Delhi-110044, with a built up area of 100 sq. meters. Thus, the claim of the petitioner has been rejected on the said ground.

4. Learned Senior Counsel appearing for the petitioner has relied upon the judgment in the case of *Chhoto Devi Vs. Land & Building Department*, order dated 12.10.2017 in *W.P.(C) 8179/2014*. By reference to the said judgment, it is submitted that in the said case, despite the said petitioner having property located in extended abadi area, the Court remanded back the matter to the Revenue Authority for reconsideration.

5. Learned Senior Counsel for the petitioner has drawn the attention of this Court to Annexure P4, Minutes of Meeting dated 27.02.2018 issued by the Land and Building Department. By reference to the said Minutes of Meeting, it is submitted that the judgment of this Court in *W.P.(C) 8179/2014*, was ultimately followed by the respondent and the Recommendation Committee, duly recommended allotment of alternative plot to the petitioner in the case of *Chhoto Devi Vs. Land & Building*, after the case was considered pursuant to remand by this Court.

6. Thus, it is submitted on behalf of the petitioner herein that the petitioner also has ancestral property only in extended abadi and that the said fact will not disentitle the petitioner from allotment of alternative plot.



7. Mr. Sanjay Pathak, Learned counsel appearing for the respondents appearing on advance notice on the other hand, vehemently opposes the submissions made on behalf of the petitioner. He relies upon the Division Bench Judgment of this Court in Case of *Ranveer Singh Vs. Govt. of NCT of Delhi and Another* and other connected matters, 2017 SCC Online Del 10794. Learned counsel relies upon Paras 28 and 56 of the aforesaid judgment to contend that there is no enforceable claim for allotment of alternative plot which is vested in the petitioner. Thus, he submits that the case of the petitioner has rightly been rejected.

8. Per contra learned Senior Counsel appearing on behalf of the petitioner draws the attention of this Court to the order dated 01.06.2018 passed in W.P.(C) 6313/2018, in the earlier proceedings initiated by the petitioner. She submits that the only objection raised earlier by the respondents was with respect to the area of the land that was acquired. Thus, on that ground it had been held by the respondents that the petitioner and his brother were not entitled for grant of allotment of alternative plot. However, subsequently, the petitioner herein submitted that his brother had already relinquished his right in favour of the petitioner herein. Thus, by way of order dated 01.06.2018 passed in W.P.(C) 6313/2018, this Court had directed the respondents herein to reconsider the case of the petitioner again, considering the fact that the objection with respect to the area of the land had already been removed by the petitioner in view of the whole land being vested in him.

9. Learned Senior Counsel for the petitioner also draws the



attention of this Court to the office noting of the respondents, which is placed on record before this Court. In the office noting attached as Annexure P-12 along with the present writ petition, there is a clear noting by the respondents that the petitioner has placed a relinquishment deed executed by his brother in favour of the petitioner. After the execution of the relinquishment deed, the share of the petitioner was 1.5 Bigha. Thus, it was noted that the petitioner was entitled for allotment of alternative plot as per the policy. Therefore, it is the contention on behalf of the petitioner that the respondent ought to reconsider its decision, since there was already a finding in favour of the petitioner.

10. Learned counsel for the respondent, however, submits that the aforesaid note was only an internal office noting and that the same cannot be relied upon by the petitioner.

11. He further submits that the ultimate decision has been taken by the Recommendation Committee.

12. Considering the submissions made before this Court, it transpires that there are judgments of this Court, wherein this Court has directed the Revenue Authorities to consider the case for allotment of alternative plot even in cases where the concerned persons had residences in extended abadi. This Court has taken note of the decision of this Court in the case of *Chhoto Devi Vs. Land & Building (supra)* and also the office noting placed on record, which shows that the said judgment in the case of *Chhoto Devi Vs. Land & Building (supra)*, was complied by the Revenue Authorities.

13. This Court has also considered the contention of the respondent



with respect to the judgment in the case of *Ranjeet Singh Vs. Govt. of NCT of Delhi (supra)* and the various judgments as considered in the impugned order. Perusal of the aforesaid judgment shows that the said judgment was rendered in the peculiar facts and circumstances of the said case, wherein it was noted that the petitioners therein were owners of lands in urbanized area. However, as per learned Senior Counsel for the petitioner, this is not the position in the present matter, as the petitioner does not own any lands in any urbanized area.

14. Considering the aforesaid factual matrix, it is directed that the present writ petition may be considered as representation by the concerned authority of the respondent. The respondent authority shall grant hearing to the petitioner at the time of considering the case of the petitioner for alternate allotment of the land. Further, the petitioner shall also be at liberty to produce any documents as may be required for consideration of his case. Similarly, the respondent authority is also at liberty to requisition any document from the petitioner for the purposes of adjudication of his case for alternative allotment of land.

15. The concerned authority of the respondent shall issue notice to the petitioner on the address as given in the memo of parties in the present writ petition. After hearing the petitioner or his authorized representative, requisite order shall be passed by the respondent authority. Needless to say if the petitioner is still aggrieved by any order passed by the respondent authority, it is open to the petitioner to seek legal remedies, as available.

16. The respondent authority is expected to deal with the case of the petitioner expeditiously, preferably within three months from today.

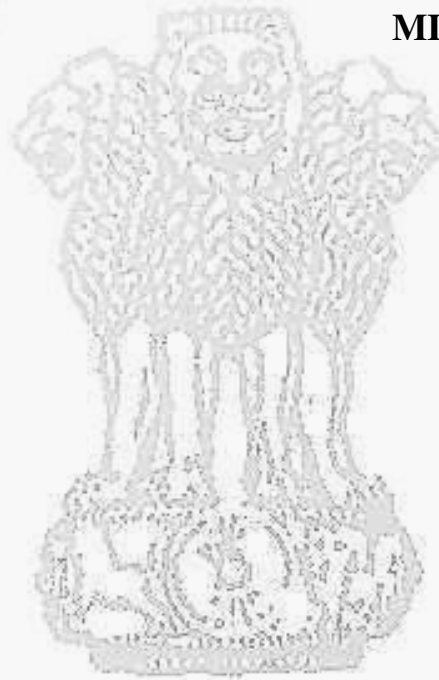


17. In view of the aforesaid, the impugned order dated 17.03.2023 is hereby set aside.

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

MINI PUSHKARNA, J

MAY 25, 2023
SC



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