



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

Date of decision: 04th JULY, 2023

IN THE MATTER OF:

+ **LPA 467/2022 & CM APPL. 35070/2022**

CHAND

..... Appellant

Through: *Appearance not given*

versus

GOVERNMENT OF NCT OF DELHI & ORS. Respondents

Through: Ms. Hetu Arora Sethi, Asst. Standing Counsel for GNCTD with Ms. Mehak Nakra, Asst. Standing Counsel
Mr. Sanjay Kumar Pathak, with Mrs. K. K. Kiran Pathak, Mr. Sunil Kumar Jha, Mr. M. S. Akhtar, Mrs. Nidhi Thakur, Mrs. Niti V. Tigga, Mr. Piyush Pathak, Advocates for R-2 & 3

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. *Vide* the present appeal the Appellant seeks to challenge the Order dated 25.04.2022, passed by the learned Single Judge in W.P.(C) No.25/2020, dismissing the Writ Petition filed by the Appellant herein challenging the Order dated 15.04.2014, passed by the Recommendation Committee of GNCTD, rejecting the application of the Appellant herein for allotment of alternative plot in lieu of land acquired by the Government.
2. The Appellant herein and his brothers were joint owners of 34 Bighas of land comprising Khasra. Nos. 34/24, 37/4, 440, 11, 12, 44/19, 20, 195/70 and 71 in Village Kakrola, New Delhi, (*hereinafter referred to as 'the land*



in question’) of which the Appellant had 1/4th share. It is stated that the land in question was acquired by the State *vide* notification No. F. 10(6)/88-L&B(2) dated 06.12.1991. An award, being award No. 1/93-94 dated 02.04.1993, was passed and the compensation was paid in two tranches. The first tranche of Rs.5,01,602.97/- was paid on 28.09.1993 and the second tranche of Rs.2,18,191/- was paid on 28.04.2000. It is stated that on 26.05.2000, the Appellant herein filed an application for allotment of an alternative plot under para E of the Scheme of “Large Scale Acquisition Development & Disposal of Land in Delhi” which was announced by the Government *vide* letter dated 02.05.1961 bearing No.37/16/60-Delhi (1). It is stated that the relevant documents were supplied by the Appellant to the Respondents *vide* letter dated 26.07.2005. It is further stated that a recommendation Committee was constituted by Respondent No.2 in the year 2013 for recommendation of grant of alternative plot and as per the minutes of meeting dated 04.09.2013, the Appellant was given a last opportunity to submit an affidavit, indemnity bond and other documents. It is stated that all the documents were produced by the Appellant. It is further stated that the Recommendation Committee, in its meeting dated 07.03.2014 rejected the claim of the Appellant herein for grant of alternative plot on the ground that the application of the Appellant herein for grant of alternative plot was time barred as the Appellant had received the compensation of the acquired land on 28.09.1993 and the application for allotment of alternative plot was submitted on 26.05.2000, which is beyond the prescribe time limit of one year. Thereafter, the Appellant filed W.P.(C) No.25/2020.

3. Before the learned Single Judge it was contended that certain co-owners of the land in question had filed a Writ Petition, being W.P.(C) 2605/2015 titled as Vidyawati @Vidya Devi and Ors Vs Govt. of NCT of



Delhi and Anr., and a learned Single Judge of this Court *vide* Order dated 25.02.2016 has accepted their claim and had directed the authorities to reconsider the application of the Petitioners therein for allotment of an alternative land in lieu of the acquired land and consequently an alternate plot was allotted to the Petitioners therein. It was, therefore, contended that the Appellant's case being identical to the case of Vidyawati (*supra*) and since both are the co-owners of the land in question, the Appellant ought to have been given the same benefits.

4. The learned Single Judge, while dismissing the Writ Petition on the ground that the Writ Petition is barred by limitation, has distinguished the case of the Appellant herein from the case of Vidyawati (*supra*) on the ground that the Petitioners therein had filed the application for grant of alternative land much earlier and that the Appellant herein has filed his application for grant of alternative land only after the decision in Vidyawati (*supra*). The learned Single Judge has also placed reliance on another judgment dated 26.07.2017, passed by this Court in W.P.(C) 5511/2016, titled as Vijay & Anr. vs. Land & Building Department, dealing with the same notification wherein the learned Single Judge has accepted the contention of the State that the period of one year would start from 1993 when the first tranche of compensation was received by the Appellant and since the Appellant herein has filed the application for grant of alternative allotment after the prescribed time limit and, therefore, the same cannot be considered.

5. It is this judgment which has been assailed in the present Appeal.

6. Heard the Counsels and perused the material on record.

7. Learned Counsel for the Appellant submits that other co-owners of the land in question who had approached this Court by filing W.P.(C)



2605/2015 have been allotted alternate plot under the rehabilitation scheme and the Appellant being identically situated to the co-owners, he must be given the same benefit. He state that the Appellant was unaware of the Judgment in Vidyawati (supra) and he approached the Court immediately after coming to know that the co-owners have been given an alternate plot and since the case of the Appellant herein is squarely covered under the Scheme, he was also entitled for an alternate plot in lieu of his acquired land. He further submits that the entire compensation was paid only in the year 2000 and as in the case of Vidyawati (supra), the Appellant herein also filed his application for grant of alternate plot in the year 2000 only and, therefore, it could not be said that the Appellant's case was different from the case of Vidyawati (supra) who have been allotted an alternate plot pursuant to the Orders passed by this Court.

8. Learned Counsel appearing for the Respondents supports the impugned judgment.

9. Heard the Counsel for the parties and perused the material on record.

10. Undisputed facts of the case are as under:

- a) The land in question was sought to be acquired in the year 1991.
- b) Declaration under Section 6 of the Land Acquisition Act, 1894 (*hereinafter referred to as 'the Land Acquisition Act'*) was passed on 06.12.1991.
- c) Award in relation to the said acquisition was passed and first tranche of compensation of Rs.5,01,602.97/- was paid on 28.09.1993 and the second tranche of compensation of Rs.2,18,191/- was paid on 28.04.2000.



- d) Application for allotment of an alternate plot was filed by the Appellant herein on 26.05.2000.
- e) *Vide* communication dated 07.03.2014, the Appellant herein was informed that his application for allotment of alternate plot has been rejected.

11. In the Judgment impugned herein, the learned Single Judge has placed reliance on the judgment of Vijay (supra) to hold that the period of limitation should start from the time when the compensation as declared by the Collector was received by the Appellant.

12. In the present case, the Appellant received compensation for the land in question on 28.09.1993. A perusal of the material on record shows that being dissatisfied by the award of compensation, the Appellant herein along with the co-owners of the land in question filed a representation before the Land Acquisition Collector and a reference petition was filed before the learned District Judge to decide the issue and it was only after the Reference Court passed an order enhancing the compensation that the second tranche of compensation was paid to the Appellant herein in 2000.

13. Under the Land Acquisition Act the proceedings for acquiring land commences from a notification being issued under Section 4 of the Act. The Collector passes an award fixing the compensation for the land which is to be acquired under Section 11 of the Act. A person who does not accept the award can give an application to the Collector to refer the matter to court for enhancement of the compensation and the court then once again determines the compensation. Section 16 of the Act stipulates that once an award is passed under Section 11 of the Act and possession of the land is taken, the land vests absolutely with the State Government free from all encumbrances.



14. A perusal of the Land Acquisition Act shows that the moment an award is passed and compensation is paid in terms of the award by the Collector under Section 11 of the Act, a person whose land has been acquired becomes entitled to move an application for allotment of alternative land.

15. In Delhi, a scheme for allotment of an alternative plot under “Large Scale Acquisition Development & Disposal of Land in Delhi” was introduced in 1961 for providing alternate land to persons whose lands have been acquired by the Government. At that point of time no limitation was prescribed as to when an application for allotment of alternate land can be made by a person whose land has been acquired by the Government.

16. On 23.11.1963, a notice was issued inviting applications from persons whose land has been acquired by the Government for planned development of Delhi for allotment of alternative lands and it was prescribed that those persons whose land was acquired from 01.01.1961 onwards are entitled to make an application for allotment of alternate land before 15.12.1963. In 1987, the right for allotment of alternate land was extended to those persons whose land was acquired for non-planned purposes also. On 17.11.1993 an Order was issued by the Government of NCT of Delhi in respect of lands where acquisition proceedings were finalized after 31.12.1988. It was stated that an application for allotment of alternate land will be considered within one year from the date of finalization of the land acquisition proceedings. Based on the order dated 17.11.1993, a public notice dated 30.11.1993 was issued by the GNCTD wherein it was stated that for acquisition proceedings which have been finalized after 31.12.1988, the cut-off date for applying for allotment of alternate land was kept as 31.01.1994 or one year from the date of completion of acquisition proceedings, whichever is later. In the said



public notice, it was also stated that applications received after 31.01.1994 would not be considered. The public notice also clarified that as a prerequisite for allotment of alternate land, the applicant ought to have received the compensation against the acquired land before filing an application for allotment of alternate land.

17. Relevant portions of the Order dated 17.11.1993, issued by the Government of NCT of Delhi, fixing the period of limitation, reads as under:

“2.As regards future cases, i.e. those in which land acquisition proceedings are finalised on the date of public notice, application for allotment of alternative plots will be considered by the land and building department within a period of one year from the date of finalisation of the land acquisition proceedings. This will be a standing arrangement for which no separate public notice fixing further time limits from time to time as in the past, will be required.

6. Acquisition proceedings will for the purpose of allotment of alternative plot be considered to have been finalised on the date of handing over of possession of land.” (emphasis supplied)

18. Relevant portions of the public notice dated 30.11.1993 reads as under:

“

PUBLIC NOTICE

ALLOTMENT OF ALTERNATIVE PLOTS IN LIEU OF ACQUIRED LAND UNDER THE SCHEME OF LARGE SCALE ACQUISITION DEVELOPMENT AND DISPOSAL OF LAND IN DELHI

The question of improving and streamlining the procedure for allotment of alternative plots has been under consideration of the Government of National



Capital Territory of Delhi. It has been decided that all persons in whose cases acquisition proceedings have been finalised under the Scheme of "Large Scale Acquisition, Development & Disposal of Land in Delhi after 31.12.1988 may apply in the prescribed form along with all the requisite documents for recommendation of allotment of an alternative plot of land In lieu of their acquired land so that their application reached the office of Secretary,, Land & Building Department, B-Block, Vikas Bhavan, I. P. Estate, New Delhi by or within a period of one year from the date of finalisation of acquisition proceedings, which-ever is later.

Only those persons who were recorded owner of the acquired land at the time of issuing of notification under section 4 of the Land Acquisition Act, may apply for alternative plots. Applications for alternative plots will be considered If the acquired land measured 1 bigha or more. However the request for alternative plot of 40-Sq.yds. will also be considered from a person who was having legally constructed residential house on the acquired land and he had been using the same as his bone-fide residence. The applicant ought to have received the compensation for the acquired land.

N. B. :

Acquisition proceedings will for this purpose, be considered to have been finalised on the date of handing over of possession the land.

6. As regards future cases, i.e. those in which land acquisition proceedings are finalised after the date of this notice, application for allotment of alternative plots will be considered by the department, within a period of one year from the date of finalisation of the land acquisition proceedings. This will be a standing arrangement for which no separate public notice, fixing further time limits from time to time as in the past, will be required. The application forms will be



supplied free of cost by the Land Acquisition Collector to the persons receiving the compensation, at the time of its disbursement.” (emphasis supplied)

19. This Court in Vijay (supra) has held that the application for allotment of alternate land should be made within one year from the date of payment of compensation as has been decided by the Collector and, therefore, an application which is filed after one year from the date of payment of compensation, as per the award passed by the Collector, could not be entertained. In that case also the land in question was acquired in village Kakrola, Delhi and the compensation for the acquired land was received on 28.09.1993 and the application seeking alternate land was submitted on 26.05.2000. The learned Single Judge rejected the said writ petition on the ground that the application for allotment of alternate land was made beyond the prescribed time period of one year.

20. Reliance placed by the Appellants in Vidyawati (supra), wherein the learned Single Judge has allowed that the application filed by the Petitioner therein for allotment of alternate land, which was filed beyond the prescribed time period of one year, on the ground that the period of limitation will start after the determination of final compensation. In Vidyawati (supra) the learned Single Judge has, without stating any reason, held that the period of limitation for an application for allotment of alternate land would start from the date of payment of final compensation as determined by the reference court.

21. The question that arises for consideration is as to what will be treated as final compensation. Would it mean the compensation fixed and paid by the Collector or would it extend to the award of the reference court.



22. Order dated 17.11.1993, issued by the State Government, indicates that application for allotment of alternative plots will be considered by the Land and Building Department within a period of one year from the date of finalisation of the land acquisition proceedings. The order further states that the acquisition proceedings for the purpose of allotment of alternative plot will be considered to have been finalised on the date of handing over of possession of land. Section 16 of the Land Acquisition Act specifies that once the Collector has made an award under Section 11 of the Act, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances. In light of the above, the words '*finalisation of land acquisition proceedings*' can only mean the payment of compensation after passing of the award by the Collector because once an award is passed by the Collector, the Collector then proceeds to take possession of the land after which the land vests with the Government. After payment of compensation by the Collector, a person whose land has been acquired becomes entitled for allotment of an alternative land. The words '*finalisation of land acquisition proceedings*' cannot mean the time when the compensation has been enhanced by the reference court or when it is finalized by the Apex Court. A person whose land has been acquired cannot wait for the compensation to be finalized by the Apex Court to move an application for allotment of an alternative land. It is in this light that the Order dated 17.11.1993 and public notice dated 30.11.1993 have clarified that the acquisition proceedings for the purpose of allotment of alternative plot will be considered to have been finalised on the date of handing over of possession of the land which is after the determination of compensation by the Collector under Section 11 of the Land Acquisition Act.



23. The objective of grant of alternative land to persons whose land has been acquired by the Government is to rehabilitate those persons so that they are not left homeless and landless and an alternate accommodation could be provided to them as soon as the possession of their lands has been taken by the Government. Allowing persons whose lands have been acquired to sit and wait for the final compensation to be decided by the reference court or by the Apex Court and then approaching the authorities by filing applications for allotment of alternative land will defeat the purpose of the scheme of allotment of alternative land and, therefore, the application for allotment of alternate land should be made within one year of the receipt of compensation as fixed by the Collector and not by the reference court.

24. In the present case, the land of the Appellant was acquired on 06.12.1991, award was passed by the Collector on 02.04.1993 and the compensation was paid in two tranches. The first tranche of Rs.5,01,602.97/- was paid on 28.09.1993 and the second tranche of Rs.2,18,191/- , which was a result of the Order of reference Court, was paid on 28.04.2000. The application for allotment of an alternative land was filed by the Appellant on 26.05.2000, i.e. after seven years of finalisation of land acquisition proceedings. The application for allotment of alternative land was not considered by the Authorities for the reason that it was made beyond the prescribed period of one year of finalisation of land acquisition proceedings as has been prescribed by the Government of NCT of Delhi *vide* Order dated 17.11.1993 and public notice dated 30.11.1993.

25. In light of the above, this Court does not find any fault in the decision of the Recommendation Committee and the findings of the learned Single Judge that the application of the Appellant herein for allotment of alternative



land could not be considered as the same was beyond the prescribed period and thereby barred by limitation.

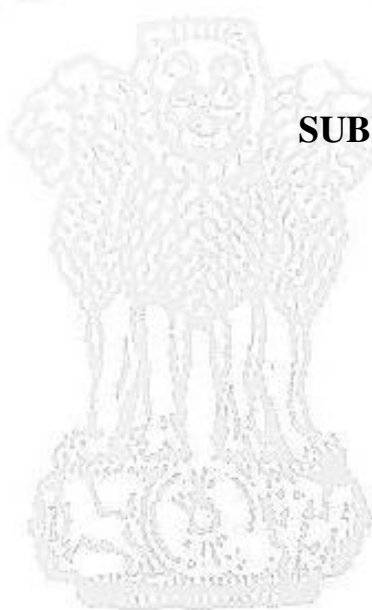
26. Accordingly, the Appeal is dismissed, along with the pending applications, if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

JULY 04, 2023

Rahul



न्यायमेव जयते