



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

Date of decision: 03rd JULY, 2023

IN THE MATTER OF:

+ **LPA 595/2022**

RAGHUBIR SINGH

..... Appellant

Through: Mr. Lalit Kumar Yadav and Mr.
Prasoon Kumar, Advocates

versus

THE SECRETARY LAND AND BUILDING

..... Respondent

Through: Mr. Rajneesh Sharma and Mr.
Siddharth Panda, Advocates.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. Aggrieved by the Judgment dated 19.09.2022 passed by the learned Single Judge in W.P .(C) 3485/2017, the writ petitioner has filed the instant LPA before this Court.

2. Shorn of details, facts leading to the filing of the instant LPA have been summarised as under:

- a) The land of the Appellant was acquired in village Kakrola *vide* notification dated 02.04.1993 under Section 4 of the Land Acquisition Act, 1894 and the possession of the land was taken over. The compensation was paid to the Appellant on 16.06.1999. The application for allotment of alternative land was submitted by the Appellant. The application of the Appellant was considered by the Committee on 27.12.2012, and application of the Appellant was rejected on the ground that the Appellant was having 1/7th share against acquired land of 4 bighas and 12 biswas, which is less than 1



bigha, and therefore, as per the policy, the Appellant did not fulfil the requirement for consideration for allotment of alternative land in lieu of acquired land. This decision of the Committee was conveyed to the Appellant *vide* office letter dated 06.02.2013.

- b) Thereafter, all the surviving members then relinquished their share *vide* Relinquishment Deed dated 23.08.2014 in favour of the Appellant to increase his share beyond 1 bigha and consequently, become eligible for allotment of alternative land as per the policy of the Respondents.
- c) Pursuant to Relinquishment Deed dated 23.08.2014, the Appellant once again approached the Respondents for allotment of alternative land stating that the remaining legal heirs and members having shares in the land have relinquished their respective shares in favour of Appellant and hence now there is no impediment in allotment of alternative land in the favour of Appellant as his share is now more than 1 Bigha.
- d) Since no response was forthcoming from the Respondents, the Appellant served legal notice dated 22.09.2014 to consider the case of the Appellant. Failure to take any action by the Respondents, the Appellant filed a writ petition bearing W.P. (C) 7839/2014 seeking a direction to the Respondents herein to respond to the legal notice dated 22.09.2014. The said writ petition was disposed *vide* Order dated 14.11.2014 wherein the Respondents were directed to consider the legal notice of the Appellant within a period of two months. Since the Order dated 14.11.2014 was not complied with, the Appellant herein filed a contempt petition bearing CONT.CAS(C) No. 357/2015. The application of the Appellant was rejected *vide* letter



dated 29.02.2016, and therefore, the said contempt petition was withdrawn by the Appellant with liberty to challenge the letter dated 29.02.2016.

- e) Thereafter, the Appellant got the relinquishment deed executed on 15.09.2016 by all interested parties in favour of the Appellant and got the same registered on 17.09.2016. After this, the Appellant served another legal notice dated 08.10.2016 to the Respondents, annexing the registered Relinquishment Deed for allotment of alternative land.
- f) Since no response was forthcoming, the Appellant, thereafter, approached this Court by filing a writ petition bearing W.P.(C) 3485/2017. The learned Single Judge came to the conclusion that the ground on which the application of the Appellant was rejected by the Respondents was that Appellant 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 Respondents any applicant having share less than 1 bigha of land is not entitled to allotment of alternative land. The learned Single Judge held that the Scheme of 1961 is only 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 and the Government had evolved a criteria for those persons who owns land more than 1 bigha and have lost their homes or their agricultural lands, which are the only source of their livelihood and, therefore, such persons must be rehabilitated by giving alternative land. The learned Single Judge further held that legal notice issued to the Respondents in the year 2014 in the form of second application with the request to consider the case of the Appellant for allotment of



alternative land would not create any further rights. The learned Single Judge was of the opinion that the Respondents were 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. The learned Single Judge held that after Relinquishment Deed was executed, the Appellant ought to have approached the Respondents and instead of approaching the Respondents, the Appellant considered serving a legal notice to the Respondents.

g) The learned Single Judge dismissed the writ petition preferred by the Appellant on three grounds, firstly, the rejection order dated 27.12.2012, communicated to the Appellant *vide* office letter dated 06.02.2013, has neither been challenged in the writ petition nor has been a subject of challenge in any other judicial forum; secondly, the second application of the Appellant was submitted by way of a legal notice which cannot be considered as a valid representation made to the Respondents; and thirdly, Respondents are not bound to consider multiple applications on the same subject matter, more so when the subsequent applications are barred by limitation.

3. Learned Counsel appearing for the Appellant draws attention of this Court towards a Relinquishment Deed dated 23.08.2014 which is an unregistered deed and a Registered Relinquishment Deed dated 15.09.2016 to show that late Santu S/o late Shri Prabhu was the owner of an agricultural land measuring 4 bighas 16 biswas, bearing khasra No.99/23(4-16), situated in the revenue estate of village Kakrola, New Delhi which was acquired *vide* award No.1/93-94 for the planned development of Dwarka Phase-II, New Delhi. Late Santu, erstwhile registered owner, passed away on 11.06.1989,



survived by various co-owners. The Relinquishment Deed dated 23.08.2014, which is an unregistered document, records that all other co-owners out of love and affection and without any monetary consideration wanted to relinquish their shares in the alternative plot favour of the Appellant. The relevant portion of the said Relinquishment Deed dated 23.08.2014 reads as under:

"And whereas the agricultural land owned by the deceased Sh. Santa had been acquired by the Government (NCT of Delhi) vide award no 1/93-94 dated 02/04/93 i.e. post 03/04/1986 comprising in Khasra No. 99/23 total land measuring 4-12.

And Whereas after acquisition and award, the concerned Government and its office has agreed to issue an alternative plot in lieu of the said acquisition to the party concerned and hence the above named releasors wish to relinquish their share which are devolved to them after the death of their original owners and in the said alternative plot in favor of the releasee and the releasors wish the said alternative plot which is likely to have been issued or mutated or transferred in the name of above said releasors with their free will and free consent without any pressure of influence from outside and without any monetary consideration.

**NOW THIS RELINQUISHMENT DEED
WITNESSETH AS UNDER**

1. *That the releasors hereby renounce, disclaim all their rights, title and interest directly or indirectly or their share of the aforesaid alternative plot allotted by the department concerned in lieu of the said acquisition of the aforesaid agricultural land in favor of the releasee.*

2. *That the releasors shall henceforth will have no rights, title and interest of their share of the alternative*



plot as the releasors totally, finally and entirely relinquish and disclaim all their rights, title and interest of the said alternative plot in favor of the releasee who shall henceforth be fully entitled and authorised to consider the said alternative plot as his very own and enjoy the same as his personal assets and will become the sole and absolute owner of the same.

3. *That the releasors also undertake and indemnify to keep the department concerned harmless against any claim, demands damages, losses and litigation, if the same of the releasee be substituted in the records of the concerned department office and authorities, together with the same terms and conditions of the department rules and regulations" (emphasis supplied)*

4. It is the contention of the learned Counsel for the Appellant that by virtue of the Relinquishment Deed since all the co-owners have relinquished their shares in favour of the Appellant, the land held by the Appellant increases to more than 1 bigha, thereby entitling him to allotment of an alternative land.

5. Heard learned Counsel appearing for the Parties and perused the material on record.

6. The short question, therefore, arises for consideration is whether the Appellant would be entitled to an alternative land under the Scheme evolved by the Government.

7. The conditions which have to be satisfied for grant of alternative land for the purpose of rehabilitation of the persons, whose land have been acquired, have been reproduced by the learned Singe Judge and the same reads as under:

"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." (emphasis supplied)

8. Material on record discloses that the registered owner of the property passed away on 11.06.1989 and the Appellant was one of the legal heirs. On the date when the award was passed and the acquisition was completed, all the legal heirs of the registered owner held the property together and admittedly, the share of the Appellant came to be less than 1 bigha. An application for allotment of alternative land was made by the Appellant. The said application was rejected on 06.02.2013 stating that the share of the Appellant against the acquired land is less than 1 bigha and as per the policy,



the Appellant does not fulfil the prescribed requirement. It is undisputed that late Santo, erstwhile owner, and his entire family was entitled to alternative land since no partition had taken place. There is nothing on record to show that the Appellant had claimed for alternative land for the entire family. The Appellant was claiming the alternative land for himself only. The Appellant was the only the recipient of 1/7th share of the compensation. The compensation would have been different if the Appellant had claimed the alternative land for his entire family as a representative of them which is not the case here.

9. Since the Appellant was claiming the alternative land in his individual capacity, his case was rejected by the Respondents *vide* letter dated 06.02.2013 which has not been challenged. After the rejection, a Relinquishment Deed dated 23.08.2014 was executed which is an unregistered document. The said unregistered Relinquishment Deed records that the other co-owners are willing to relinquish their shares in the alternative plot in favour of the Appellant. It is pertinent to mention here that no alternative land agreed to be released in favour of the Appellant on the date of unregistered Relinquishment Deed which was entered into between the parties. The unregistered Relinquishment Deed dated 23.08.2014 would have been valid only if an alternative land had been given to the legal heirs of the erstwhile registered owner on an application made by them which is not the case here.

10. Even in the registered Relinquishment Deed, which was executed on 15.09.2016, it is only recorded that all the co-owners had decided to relinquish their shares in favour of the Appellant herein. This registered Relinquishment Deed does not record a past transaction that has happened in the family but it only records a relinquishment in favour of the Appellant.



Even if it is presumed that the legal heirs of the erstwhile owner have relinquished their shares in land i.e., measuring 4 bighas 16 biswas, bearing khasra No.99/23(4-16) prior to the award, no application could have been entertained on the basis of that registered Relinquishment Deed dated 15.09.2016 because the application would be barred by time. The application for grant of allotment of alternative land ought to have been made before one year from the completion of the acquisition process which was in the year 1999 when the compensation was paid. The Appellant cannot, therefore, claim alternative land on the basis of registered Relinquishment Deed executed on 15.09.2016 by which the co-owners had decided to relinquish their shares of the property, which was not owned/held by them since the land had already vested in the State Government. Even if it is assumed that the registered Relinquishment Deed only records a past transaction, the said Deed is of no consequence because any application for grant of alternative land based on the said Deed would be barred by time as the application ought to have been made within one year from the acquisition process.

11. In view of the above, this Court does not find any reason to interfere with the Judgment passed by the learned Single Judge.

12. Resultantly, the LPA is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JULY 03, 2023

S. Zakir