

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

Date of decision: 13th APRIL, 2023

IN THE MATTER OF:

+ **LPA 628/2022 & CM APPL. 47251/2022**

SHRI RANBIR SINGH TOMAR Appellant

Through: Mr. N.S. Dalal, Mr. Alok Kumar &
Ms. Rachana Dalal, Advocates.

versus

LAND AND BUILDING DEPARTMENT Respondent

Through: Mr. Biraja Mahapatra, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SATISH CHANDRA SHARMA, C.J.

1. *Vide* the present LPA, the Appellant seeks to challenge the judgment and order dated 25.08.2022, passed by the learned Single Judge in W.P.(C) 9920/2017, by which the learned Single Judge has dismissed the Writ Petition.

2. The facts of the case reveal that the Appellant herein purchased a piece of land, being Plot No.39, admeasuring 200 sq. yds., Khasra No.562, Sector 2, Sultanpur Village (*hereinafter referred to as the 'land in question'*), from its erstwhile owner *vide* a registered sale deed dated 22.10.1971. It is stated that the land in question was acquired by DDA in 1976 *vide* award No.15-79/80. It is stated that compensation for the land in question was paid to the Appellant herein on 09.07.1993 and after getting the compensation the Appellant herein applied for an alternative plot under

the rehabilitation policy. It is stated by the Appellant that he fulfilled all the conditions of getting an alternative land in lieu of his acquired land. It is stated that vide letter dated 27.01.2014, the application of the Appellant herein for alternative plot was rejected by the Land and Building Department/Respondent herein on the ground that the Appellant did not submit the requisite documents and in the absence of the same, eligibility of the Appellant for an alternative plot cannot be ascertained. Thereafter, the Appellant herein filed W.P.(C) 9920/2017 seeking quashing of letter dated 27.01.2014.

3. The learned Single Judge rejected the Writ Petition on the ground that the Appellant herein had not produced the proof of mutation carried out in the name of the purchaser in the revenue records, namely, Jamabandi, Khatoni, etc.

4. The facts of the case are not disputed. The Appellant herein purchased 200 sq. yds. of land from its erstwhile owner *vide* a registered sale deed dated 22.10.1971. The land in question was acquired by the DDA in 1976 and the Appellant herein was paid compensation. After getting the compensation, the Appellant herein applied for an alternative plot in terms of the rehabilitation policy of the Respondent herein. The Respondent do not dispute that the land in question has been acquired. The Respondent also do not dispute that the compensation has been paid to the Appellant herein. The fact that compensation of the land in question has been paid to the Appellant is a proof that the Appellant was the owner of the land in question when it was acquired by the DDA. After compensation has been paid, it is now not open to the Respondent herein to ask for mutation documents from the Appellant herein as a condition precedent to get the benefit of the

rehabilitation policy. Once the land has been acquired by the DDA in 1976, it was impossible for the Appellant to get the mutation of the land in question done in his name and not being able to get the land in question mutated in his name, cannot be a reason to deny the Appellant his legitimate claim for allotment of an alternative plot. It is not the contention of the Respondent herein that the Appellant was not the owner of the land in question. The object of the rehabilitation policy is to ensure that the person who has lost his property in acquisition proceedings is given other alternative plot so that he is deprived of shelter over his head. It is also not the case of the Respondent that the Appellant is not entitled for rehabilitation. Mere absence of document showing mutation alone cannot be a reason to deprive the Appellant of his legitimate claim of rehabilitation. The Respondent is, therefore, directed to consider the case of the Appellant herein *de hors* the mutation documents and pass appropriate orders granting alternative plot to the Appellant herein if he is found eligible for the rehabilitation policy.

5. With these observations, the present appeal is allowed and Order dated 25.08.2022, passed by the learned Single Judge is set aside. Pending application(s), if any, are disposed of.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

APRIL 13, 2023

Rahul