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

+ LPA 633/2022

NARESH KUMAR

..... Appellant

Through: Mr. Anand Yadav, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC with Mr. Kamal Digpaul, Ms. Swati Kwatra and Ms. Ishita Pathak, Advocates for respondent/UOI.

Mr. Gaganmeet Singh Sachdeva with Mr. Ashish Singh, Advocates for respondent/DDA.

Mr. Rishikesh Kumar, ASC, GNCTD with Mr. Aryan Sinha, Advocate for respondent no. 3.

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+ LPA 634/2022

SUBE SINGH

..... Appellant

Through: Mr. Anand Yadav, Advocate.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC with Mr. Kamal Digpaul, Ms. Swati Kwatra and Ms. Ishita Pathak, Advocates for respondent/UOI.

Mr. Gaganmeet Singh Sachdeva with Mr. Ashish Singh, Advocates for respondent/DDA.

Mr. Rishikesh Kumar, ASC, GNCTD with Mr. Aryan Sinha, Advocate for respondent no. 3.

3

+ LPA 635/2022

DAYANAND

..... Appellant

Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
Signing Date: 05/10/2023
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Through: Mr. Anand Yadav, Advocate.
versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC with Mr. Kamal Digpaul, Ms. Swati Kwatra and Ms. Ishita Pathak, Advocates for respondent/UOI.
Mr. Gaganmeet Singh Sachdeva with Mr. Ashish Singh, Advocates for respondent/DDA.
Mr. Rishikesh Kumar, ASC, GNCTD with Mr. Aryan Sinha, Advocate for respondent no. 3.

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Date of Decision: 03rd October, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MANMOHAN, J: (ORAL)

1. The present appeal challenges the common judgment dated 25th August, 2022 passed by the learned Single Judge in a batch of matters by which the rejection of the claim of the appellants by the respondents for allotment of alternative plots, has been upheld.
2. Appellants were owners of their respective land in revenue estate of village Dhool Siras, Delhi. Subsequently, the land of the appellants was acquired by Award No. 27/2002-2003 dated 24th October, 2002 for development of Dwarka Phase-II under Delhi Development Act, 1957 (DDA Act). The possession of land of the appellants was duly taken and compensation was also paid to them.
3. Thereafter, the appellants applied for allotment of alternative plots by



applying to the Land and Building Department, Government of NCT of Delhi vide application dated 30th June, 2003 by Naresh Kumar, application dated 29th April 2003 by Sube Singh and application dated 13th November, 2003 by Dayanand. However, respective applications of Naresh Kumar and Dayanand for allotment of alternative plot were rejected vide letters dated 04th November, 2019 on the ground that before their allotment could be processed, their wives had acquired property in their own name. Application of Sube Singh for allotment of alternative plot was rejected vide letter dated 06th May, 2019 on the ground that his entire land had not been acquired and that his remaining land was under Lal Dora, which had been urbanized. Since the writ petitions against the said rejection letters were dismissed, the present appeals have been filed.

4. On behalf of appellants it is contended that the writ petitions of the appellants have been dismissed on the ground that the wives of the respective appellants already had alternative plot in their name at the time when the appellants had applied for allotment of alternative plot. It is submitted that no such alternative plots exist in the names of their respective wives.

5. It is submitted that the rejection letters issued by respondents are without any application of mind with the sole intention of not to allot alternative plots to persons whose lands have been acquired, though they have statutory right for allotment of land.

6. It is submitted that since the land of the appellants has been acquired for the purpose of development namely Dwarka Phase-II, Delhi under DDA Act, therefore, in view of Section 21 of the said Act, the appellants have statutory right for allotment of suitable accommodation in terms of the



provisions of the DDA Act.

7. It is further submitted that appellants are also entitled for allotment of plots under Statutory Rules i.e. Delhi Development Authority (Disposal of Developed Nazul Land) Rules, 1981 (“Nazul Land Rules”). Attention of this Court has been drawn particularly to Rule 6 and Rule 17 of the Nazul Land Rules.

8. It is contended that the respondents have rejected the applications of the appellants by relying upon the judgment dated 14th September, 2011 in the case of **Delhi Development Authority versus Jai Singh Kanwar**, Civil Appeal No. 8289/2010 and judgment dated 25th August, 2017 in the case of **Surender Singh Maan versus Government of NCT of Delhi**, W.P.(C) 12306/2015. However, the same are not applicable in the facts and circumstances of the present cases. It is submitted that in case of the appellants, entire agricultural land was notified and possession was taken. Further, as regards the condition that an applicant should not own a house/residential plot in village Abadi, the DDA and Delhi Administration played a fraud, and instead of “out of village Abadi”, as mentioned in the policy, they claimed “in village Abadi”. The said condition is contrary to the policy of the respondents.

9. It is submitted on behalf of appellants that various issues as raised on their behalf have not been considered by the learned Single Judge.

10. On behalf of respondent no. 3, SDM (HQ), Government of NCT of Delhi, it is submitted that multiple cases of rejection of the application for alternate plot of the village in question under the same project was challenged in various writ petitions in similar grounds, were dismissed. Appeal against the same in *LPA No. 173/2017* and connected matters were



dismissed vide judgment dated 27th September, 2017, in the matter of ***Ranjeet Singh Versus Government of NCT of Delhi and Others***. The appellants have deliberately not mentioned about the same in their pleadings. It is submitted that the orders rejecting the applications of the appellants for allotment of alternative plots are well reasoned and do not suffer from any perversity in law or on facts. It is submitted that the scheme of the government for allotment of alternative plot is a rehabilitative measure for individuals who become landless and homeless upon acquisition of their land. The said Scheme does not vest any right in anyone to alternative land.

11. It is further submitted that the scheme of alternative allotment of plot by the Delhi Government is not repugnant to the DDA Act or the Nazul Land Rules.

12. On behalf of Delhi Development Authority (DDA) it is contended that the initial screening of applications for alternative allotment of plots is conducted by the Land and Building Department, Government of NCT of Delhi (GNCTD). The DDA can allot alternative plots only on the basis of recommendations provided by the Land and Building Department.

13. Upon hearing the counsel for the parties and upon perusal of the record, it is manifest that the primary ground on which the petitions of the appellants have been decided is that their respective wives already had alternative plots in their names at the time when the appellants applied for allotment of alternative plot. However, this fact was vehemently denied on behalf of the appellants. Therefore, by order dated 09th November, 2022, this Court had directed the respondent no. 3/GNCTD to take instructions as to whether the wives of the appellants were having plots in their name at the



time of acquisition of land in question. Subsequently, when the matter was listed on 11th January, 2023, counsel appearing on behalf of GNCTD informed the Court that the wives of the appellants were not having any plots in their names at any point of time. For ready reference, order dated 11th January, 2023 passed in the present proceedings is reproduced hereunder:

“1. The Order passed by the learned Single Judge reveals that one of the grounds for dismissing the Writ Petitions filed by the Appellants herein, which was for a direction to the DDA for allotting alternative plots to the Appellants herein, was that the wives of the Appellants herein were having lands in their name.

2. Even the rejection order which was challenged in the writ petition contains such grounds. In order to find out as to whether the wives of the Appellants herein were having plots in their name or not, this Court on 09.11.2022 had granted time to the learned Counsel for the GNCTD to go through the records and inform this Court accordingly.

3. Today, the learned Counsel for the GNCTD has informed this Court that the wives of the Appellants herein were not having any plots in their names at any point of time.

4. Let the aforesaid statement be filed in an affidavit positively within a week's time.

5. List on 23.01.2023.”

14. Subsequently, in terms of direction of this Court an affidavit has been filed on behalf of GNCTD, wherein it has been confirmed that names of the wives of the appellants are not entered in the Land Records, therefore, information regarding any land owned by the wives of the appellants cannot be provided.

15. In view of the aforesaid, it is clear that the judgment passed by the learned Single Judge on the basis that the wives of the appellants owned alternative plots, is erroneous on the face of it. Besides, this Court notes that the various contentions raised on behalf of the appellants were also not considered by the learned Single Judge. In that view of the matter, the



impugned judgment passed by the learned Single Judge cannot be sustained.

16. Accordingly, the present appeals are allowed and the impugned common judgment passed by the learned Single Judge is set aside. The matter is remanded back to the learned Single Judge for deciding the matter afresh after hearing all the parties and after considering all the contentions raised by the parties.

17. Since no counter affidavit was filed on behalf of GNCTD to the writ petitions of the appellants, upon request, 8 weeks time is granted to the GNCTD to file counter affidavit in the writ petitions of the appellants before the learned Single Judge. Learned counsel for the appellants prays for and is granted time of 4 weeks thereafter to file rejoinder. Learned counsel for appellants further prays and is granted liberty to file additional documents in support of their case within 4 weeks. The respondents are granted liberty to respond, if need be, to the additional documents to be filed on behalf of appellants.

18. List the writ petitions being *W.P.(C) 2791/2020, 2182/2020 & 2816/2020* before the learned Single Judge on 08th January, 2024. This Court clarifies that the rights and contentions of all the parties are left open. Needless to state that the Court has not expressed any opinion on the merits of the controversy.

MANMOHAN, J

MINI PUSHKARNA, J

OCTOBER 3, 2023/ AK