



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 31.05.2023

+ **LPA 124/2018 and CM Nos.10959/2018 & 27555/2023**

JAI SINGH

..... Appellant

versus

**GOVERNMENT OF NCT OF DELHI
& ANR.**

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr Pratyush Sharma, Advocate.
For the Respondents : Mr Rajneesh Sharma, Advocate for R-1.

Mr Monika Tripathy, Mr Ashutosh
Kaushik, Mr C. Shah and Mr Manish
Vashist, Advocates for R-2.

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**HON'BLE MR JUSTICE VIBHU BAKHRU
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

VIBHU BAKHRU, J

1. The appellant has filed the present intra-court appeal impugning an order dated 26.08.2016 (hereafter '**the impugned order**') passed by the learned Single Judge, whereby the appellant's petition (being **W.P.(C) 4789/2014** captioned ***Jai Singh v. Government of NCT of Delhi & Anr.***), was rejected. The appellant also impugns an order dated



24.01.2018, whereby it's review petition, being Review Pet. 528/2016, seeking review of the impugned order, was rejected.

2. The appellant is, essentially, aggrieved by the decision of the respondents in not accepting that the appellant is entitled to an alternate plot of land under the relevant scheme in view of the acquisition of lands owned by his father (Late Sh. Ram Chander).

Factual context

3. The appellant's father, Sh. Ram Chander was the owner of 1/6th share of land admeasuring 7 *bighas* and 1 *biswas* in Khasra Nos. 636 (0-18), 746 (1-0), 791(2-3), 799 (3-0); 1/24th share of land admeasuring 7 *bighas* and 9 *biswas* comprised in Khasra Nos. 2057/994/2 (2-17), 2058/1044 (1-7), 2059/1044 (3-5); and 1/16th share of land admeasuring 5 *bighas* and 17 *biswas* comprised in Khasra Nos. 1014 (2-19), 1012 (1-18), 1807/876 (1-0) forming part of Village Naraina, New Delhi.

4. Part of the land owned by Sh. Ram Chander was acquired by the Government by an award dated 05.11.1962, and its possession was taken over on 24.11.1962. The remaining land was acquired pursuant to an award dated 09.01.1976, and physical possession of the same was taken over on 11.02.1976.

5. It is also not disputed that Sh. Ram Chander received the compensation for the land acquired by virtue of the award dated 05.11.1962 (Award No. 1414/62-63), on 23.01.1963 and for the lands acquired under award dated 09.01.1976 (Award No. 19/75-76), on



20.07.1976. There was a dispute regarding apportionment of the compensation awarded for the acquisition of the land under Award No. 19/75-76, which was decided by the Court of Additional District Judge on 30.04.1979 (L.A.C No. 12/1976).

6. Sh. Ram Chander expired on 09.11.1985. During his lifetime, he did not apply for an alternate plot.

7. In the year 1961, the Government of NCT had framed a scheme for allotment of alternative plot in lieu of land acquired under “*Large Scale Acquisition, Development and Disposal of Land in Delhi for Planned Development of Delhi*” (hereafter ‘**the Scheme**’). The Scheme was framed with the objective of rehabilitating agriculturists whose land was acquired by the Government.

8. In March 1988, the Land and Building Department, of the Government of NCT of Delhi, issued a public notice informing persons in whose case acquisition proceedings have been finalized under this scheme between the period of 16.11.1963 and 31.12.1988, that it was open for them to apply for recommendation of an alternate plot in lieu of the acquired land, in accordance with the policy laid down by the Delhi Administration from time to time. The said application could be made latest by 30.04.1989.

9. The said notice (hereafter referred to as ‘**the Public Notice**’) is central to the issues involved in the present appeal. The Public Notice is set out below:



“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.

Public is hereby informed that all persons in whose case acquisition proceedings have been initiated under the scheme of ‘Large Scale Acquisition, Development and Disposal of Land in Delhi for Planned Development of Delhi’ between the period 16th November, 1963 and 31st December, 1988 [both dates inclusive] may apply in the prescribed form along with all requisite enclosures for recommendation of allotment of an alternative plot of land in lieu of the acquired land in accordance with the policy laid down in this behalf by Delhi Administration from time to time so that their application reaches the office of the Secretary (L&B), ‘D’ Block, Vikas Bhavan, I.P. Estate, New Delhi, latest by 30.04.1989.

Only those persons may apply who have not applied earlier for the said purpose. For the removal of doubts it is clarified that this scheme is applicable only to those persons who were recorded owners of the acquired land at the time of notification under Section 4 of the Land Acquisition Act.

If a person himself or his wife/husband or any other dependent relations, including unmarried children is in possession of a residence or a residential plot, full or part of it, either on leasehold or freehold in Delhi, its urbanised areas, New Delhi or Delhi Cantt., such person is not eligible for an alternative plot under the scheme and accordingly he or she should not apply in response to this notice.

The prescribed application form is available free of cost from the Reception Counter of the Office of Secretary (L&B), ‘D’ Block, Vikas Bhavan, New Delhi, and the same could be obtained under working hours between 10.00 A.M. and 5.00 P.M.

Delhi Administration will not recommend allotment of an alternative plot in lieu of acquired land in case the application does not reach the office on or before 30.04.1989. No applications received after 30.4.1989 would be considered.



Sd/-
(MRS. GEETA SAGAR)
JOINT SECRETARY (L&B)”

10. The appellant claims that he is one of the two legal heirs who survived the demise of his father on 09.11.1985. On 28.04.1989, the appellant applied for allotment of an alternate plot of land in lieu of his father's lands that were acquired in the years 1962 and 1976. The appellant's application was forwarded to the Land Acquisition Collector (LAC) for his report. However, he returned the said application to respondent no.1 because *khasra* numbers and ward numbers were not mentioned in the application. According to the appellant, the LAC had erred in returning the application. A copy of the extract of the land records (*Jamabandi*) was annexed with the application.

11. The appellant states that his aforesaid application was not processed and was kept in abeyance on the ground that the appellant had not received the compensation for the acquired land. This was erroneous because the appellant's father, Sh. Ram Chander, the recorded owner of the acquired lands, had received compensation during his lifetime.

12. The appellant sent a letter dated 01.09.2003 to the respondent, inquiring as to the status of his application. Subsequently, he also forwarded a document evidencing that compensation for the acquired land had been received by his father, Late Sh. Ram Chander. He also provided information regarding the *khasra* and ward numbers.



13. Despite providing the details and the documents, the appellant's application was not considered. This led the appellant to make a complaint to the Lieutenant Governor and he sought a report from respondent no.1. The appellant states that thereafter, once again the appellant was called upon to provide further details and documents, which he had already provided earlier. Nonetheless, the appellant once again provided the documents and details of the acquired land as sought for by respondent no.1.

14. Finally, by a letter dated 03.07.2013, respondent no.1 informed the appellant that his application was considered by the Recommendation Committee on 15.05.2013 and the same was rejected.

15. Aggrieved by the same, the appellant filed the writ petition – **W.P.(C) 4789/2014** captioned **Jai Singh v. Government of NCT of Delhi & Anr.** – which was dismissed by the impugned order.

Reasons and Conclusion

16. The letter dated 03.07.2013 indicates that the Recommendation Committee had rejected the appellant's application on the ground that it was time barred and was not covered under the amnesty scheme (the Public Notice), which was available only to the recorded owner. According to the appellant, the said reasoning is flawed, and the decision of the Recommendation Committee is required to be struck down. The appellant contends that the Scheme covers several categories of persons who are entitled for alternate plots of land in lieu of acquired lands. This includes legal heirs of the deceased recorded owner of the



land. It is the appellant's case that the Public Notice issued in March 1988 did not alter a policy or the Scheme in any manner but merely granted further time for making applications for allotment of alternate plots under the Scheme.

17. The respondents contested the petition filed by the appellant and countered the aforesaid submissions. First, they stated that the Public Notice issued in March 1988 provided a restrictive opportunity, only to the recorded owners to apply for alternate plots. It did not universally extend the Scheme. In addition, they contended that the appellant is ineligible for allotment of an alternate plot as his entire land had not been acquired.

18. The learned Single Judge accepted the contentions advanced on behalf of the respondents and held that the language of the Public Notice was clear and that the time for applying for an alternate plot was extended only for a recorded owner of acquired land and therefore, the appellant was not eligible to apply. The learned Single Judge examined a letter dated 25.11.2004, sent by the appellant and on the said basis concluded that the appellant still possessed lands and therefore, was ineligible for applying for an alternate plot. The learned Single Judge also rejected the contention that the Scheme did not provide any time period for making the application and therefore, the same could be made at any stage.

19. The appellant clarified that he did not own or possess any land and that the letter dated 25.11.2004 issued by him was merely to the



effect that it did not have the relevant records that were sought for by the respondents. The contents of the said letter dated 25.11.2004 have been quoted in the impugned order and are reproduced hereunder:

“Respected Sir,

I am in receipt of your above mentioned letter in which you have sought some clarifications regarding Khasra No. 540 (1-02), 567 (4-15), 702 (0-09), 1802/522 (2-05), 2056/994 (1-09), 993, 2057/994/1 (0-05), 590 (2-18). In this regard I submit that I have not got any record in support to the above mentioned Khasra at present, that is why neither I have applied for any alternative plot nor I will apply in future, though these Khasra belong to me. In the absence of supporting documents I am helpless in applying for any alternative plot.(Affidavit enclosed).”

20. We are persuaded to accept the appellant’s contention that the said letter is not happily worded but cannot be read to conclusively hold that the appellant is the owner or in possession of any part of the lands as mentioned in the letter. The appellant denies that he has any interest in the acquired lands or is in possession of any part of the said lands. The respondents were not precluded from verifying whether in fact the appellant owns or is in possession of any land in Khasra No. 540(1-02), 567(4-15), 702(0-09), 1802/522(2-05), 2056/994 (1-09), 993, 2057/994/1(0-05), 590 (2-18). Concededly, the respondents are not in a position to deny that the lands, as mentioned in the letter dated 25.11.2004, were acquired and the appellant is not in possession of the same. According to the appellant, the said letter dated 25.11.2004 was sent merely to assure to the respondents that the appellant had not made any other application for an alternate plot in respect of the said acquired



lands nor would the appellant do so in the future. We consider it apposite to accept the appellant's statement that he does not own or possess any land, as specifically mentioned in the letter dated 25.11.2004, for the purposes of this petition at this stage. However, the right of the respondents to verify the said fact is reserved.

21. The central controversy to be addressed in this appeal is whether it is open for the respondents to truncate the application of the Scheme only to the recorded owner, by way of the Public Notice. According to the appellant, the respondents cannot truncate the application of the Scheme framed by the Government and the import of the Public Notice was simply to extend the time period for making an application for an alternative plot under the Scheme.

22. Before proceeding further, it is relevant to consider the appellant's contention that the Scheme did not provide for any time period for making an application and therefore, the same was required to be made within a reasonable time. The learned counsel for the appellant had advanced the aforesaid submission in aid of his contention that the Public Notice cannot be construed to restrict the Scheme at merely clarify the time period within which the application could be made, which in any event was not mandatory.

23. The Scheme to allot alternative plots to agriculturists whose lands had been compulsorily acquired for the development of Delhi, for their rehabilitation, is a welfare Scheme. Thus, it must be construed liberally. The Scheme, as originally framed, covered various categories of



persons who could apply for alternate plots. It also specified persons who were ineligible for applying for alternate plots. The respondents have from time-to-time entertained applications under the Scheme in disregard of the strict timelines. However, it would be erroneous to hold that the Scheme is an open-ended one and that any eligible person could apply at any point of time. It is also well settled that even in cases where the time period for doing an act is not provided, it must be construed that the same is required to be done within a reasonable period of time. (See: *State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union Ltd.:* (2007) 11 SCC 363.) In terms of the Scheme, an application for an alternate plot of land under the Scheme was required to be filed within a period of one year from the date of receipt of compensation.

24. In *Government of NCT of Delhi v. Smt. Veerwati: LPA 101/2010*, decided on 07.03.2012, the Division Bench of this Court had examined the Scheme and noted the conditions required to be specified for allotment of an alternative plot. Paragraph 3 of the said decision reads as under:

“3. In the year 1961 the Government formulated the scheme for allotment of alternate plots to those land owners whose land is acquired for planned development of Delhi and the land so acquired is placed at the disposal of the DDA. The allotment of alternate plot under this policy was subject to his satisfying, beside others, following conditions:-

- a) The application must have been filed within a period of one year from the date of receipt of the compensation.
- b) He should be recorded owner of the acquired land prior to the date of issuance of the Notification under Section 4 of the Act.



c) He must have received the compensation for the said land as a rightful owner and the possession of the acquired land has been taken by the Government.

d) Neither he nor his spouse nor any of his dependent children own any residential property in Delhi.”

25. In the facts of the present case, the appellant’s father, who was the recorded owner of the acquired lands, could have applied for an alternate plot within one year of the receipt of compensation, which was received on 23.01.1963 for a part of land and on 20.07.1976 for the remaining land. Sh. Ram Chander expired on 09.11.1985 and had not made any application under the Scheme during his lifetime. Thus, the time for making an application under the Scheme had expired during the lifetime of Sh. Ram Chander. Undisputedly, the appellant was ineligible to apply for an alternate plot of land during the lifetime of his father, who was the recorded owner of the land in question. However, the appellant claims that he became entitled to apply for an alternate plot after his father’s demise. The appellant had relied on the following provisions of the Scheme in support of his contention that legal heirs of the recorded owner of the acquired land were also entitled to apply for alternate plots:

“When the recorded owner of the land acquired dies before notification u/s 4 of L.A. Act, allotment is to be made separately to all the legal heirs of the deceased, according to their shares recognized by the LAC, but if he dies after the notification u/S4 of LA Act, all legal heirs are entitled to one plot of the size to which the deceased would have been entitled.”

26. We are unable to accept that the aforesaid passage supports the appellant’s claim that it was entitled for an alternate plot. In this case,



the appellant's father was the recorded owner at the time of the notification under Section 4 of the Land Acquisition Act, 1894. As a recorded owner of acquired lands, he was entitled for allotment of an alternate plot. The legal heirs of the recorded owner would also be entitled to one plot if the recorded owner had expired after the date of notification under Section 4 of the Land Acquisition Act 1894. This, obviously, covers a case where the recorded owner had died either prior to receipt of the compensation or before the time for making an application under the Scheme had expired. In such cases, the legal heirs would step into the shoes of the deceased and would be entitled to his estate as well as the right available to him. However, it would be erroneous to hold that the legal heirs of a deceased recorded owner would be entitled to apply for an alternate plot even in cases where the recorded owner had survived for several years after the time for making the application expired, and had not made any such application. In such cases, the right of a recorded owner to apply for an alternate plot would stand extinguished. Thus, leaving no vestige of any right for the legal heirs to apply for an alternate plot under the Scheme.

27. We also find no legal basis for the contention that it was not open for the respondents to extend the Scheme in a restricted manner. The Scheme was to give effect to the Government's policy to rehabilitate the agriculturists whose lands had been acquired. It is always open for the Government to alter its policy. The policy or any change in policy cannot be interfered with unless it falls foul of the provisions of the Constitution of India or any law. In the present case, the policy to relax



the time period for making an application only for the recorded owners of the land does not offend any law. The contention that the same is arbitrary or violative of Article 14 of the Constitution of India is also unsustainable. Treating the recorded owners of the lands as a category separate from their legal heirs, does not offend Article 14 of the Constitution of India, which permits reasonable classification. In the present case, restricting the relaxation of extended time to make an application to the persons who were recorded land owners at the material time and not the legal heirs, effectively extends the benefit of relaxation to one generation and not the next.

28. The learned Single Judge also noted the observations made by the Division Bench of this Court in ***Shri Krishan Kumar Sehrawat v. Govt. of NCT of Delhi & Anr.: LPA 169/2014***, decided on 05.02.2016, where it was noted that “*the amnesty scheme/policy permits only the recorded owner to make an application for allotment of alternative plot*”.

29. It is also material to note that the appellant has not challenged the Public Notice or the policy to extend the time for making an application for an alternate plot to the recorded owners.

30. In fact, the appellant himself has applied on the basis of the Public Notice. According to the appellant, the notice merely relaxes the period of time for making the application and did not modify the Scheme. The said contention is without basis. There is no ambiguity in the language of the Public Notice. There is also no cavil that the



issuance of the said notice was duly authorised by respondent no.1 (the Government of NCT of Delhi, Land and Building Department). Respondent no.1 had extended the time period for making an application only in respect of the recorded owners. It is not necessary for the Government to relax a condition for all categories of persons in order to relax the same for some. If relaxation of any condition is applicable only to a class of persons and does not violate the equal protection clause, no interference with the said decision would be warranted.

31. In view of the above, the appeal is unmerited and accordingly, dismissed. All pending applications are also disposed of.

32. The parties are left to bear their own costs.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

MAY 31, 2023
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