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

+ **W.P.(C) 584/2016**

MUKESH KUMAR GUPTA

.....Petitioner

Through: Mr. S. Khan and Mr. N. Bhati,
Advocates.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor and Mr. Varun Pratap Singh,
Advocates for R1/UOI.

Mr. B. Mahapatra, Advocate for R2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

24.07.2024

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1. This writ petition has been preferred on behalf of the Petitioner seeking the following reliefs:

“(a) Issue Writ of Certiorari to the effect of quashing of the impugned decision/letter dated 07.08.2014 of no.2 rejecting the application of petitioner for the allotment of alternative plot in lieu of acquired land measuring 7 Bigha 10 Biswas bearing Khasra no. 1128 min situated in the revenue estate of village Mehraulli, F.No.32(45)/04/ 2002/ L&B/ ALT.

(b) Direction to the respondent no. 2 to allot alternative plot to the petitioner in lieu of acquired land measuring 7 Bigha 10 Biswas bearing Khasra no. 1128 min situated in the revenue estate of village Mehraulli, F.No.32(45)/04/2002/ L&B/ ALT as per scheme.

(c) Pass any further orders or directions which this Hon'ble Court may deems fit and proper in the present case in favour of the petitioner, in the interest of justice.”

2. As per the narrative of facts in the petition, a Notification was issued on 23.01.1965 under Section 4 of Land Acquisition Act, 1894 (hereinafter



referred to as 'LA Act') in respect of *Khasra* No.1128, situated in Village Mehrauli, on which date Sh. Sis Ram was a recorded owner of land ad-measuring 7 *bighas* 10 *biswas* in the said *Khasra*. On 25.03.1965, Sh. Nanak Chand was adopted by Sis Ram through a registered Adoption Deed vide Registration No. 309, Additional Book No. 4, Volume No. 442 in the Office of Sub-Registrar-1 (North), Kashmere Gate.

3. It is averred that Sis Ram passed away on 17.09.1966. On 07.12.1966, Notification was issued under Section 6 of the LA Act. On 09.01.1981, Land Acquisition Collector announced the award No. 80E/70-71(Suppl) w.r.t. *Khasra* No.1128 (19-19) and assessed the compensation in favour of the recorded owners. On 25.03.2000, Nanak Chand was brought on record in the claim petition pending before the Court for apportionment of compensation amongst interested persons. On 17.03.2001, Nanak Chand died and his legal heirs i.e. Petitioner and Nanak Chand's widow and daughter were brought on record in the claim petition on 29.10.2001.

4. Petition bearing LAC No. 75/1993 under Section 30/31 of LA Act for apportionment of compensation was decided by the Court on 27.05.2002 in favour of legal heirs of Nanak Chand and thereafter, on 28.11.2002, Petitioner and the other two legal heirs applied for allotment of alternative plot in lieu of the acquired land. However, by order dated 07.08.2014, Respondent No. 2 rejected the application and representation made to the Competent Authority on 29.10.2015 yielded no result.

5. Learned counsel for the Petitioner submits that the sole ground on which the application for allotment of alternative plot has been rejected is that as per the Scheme of allotment, after the death of recorded owner, post the issuance of Notification under Section 4 of the LA Act, only legal heirs



of the recorded owner are eligible for allotment of alternative plot jointly and in the instant case, after Sis Ram died on 17.09.1966, Nanak Chand, who was his adopted son also died on 17.03.2001 and since Petitioner is the legal heir of an adopted son, he was ineligible for allotment. This according to learned counsel is a wholly erroneous decision since the Scheme of the DDA pertaining to allotment of alternative plots explicitly sets out the eligibility criteria according to which a 'legal heir' is eligible for allotment of plot and no exception is carved out against a legal heir of an adopted son of the recorded owner. It is urged that recognising the status of the Petitioner as a legal heir, petition being LAC No. 75/1993 for apportionment of compensation amongst eligible persons was decided by the Court in favour of the widow of Nanak Chand, his daughter and the Petitioner. It is, therefore, prayed that direction be issued for allotment of the alternative plot in favour of the legal heirs including the Petitioner in lieu of acquisition of the land, as aforementioned.

6. Learned counsel for the Respondents relying on the rejection order submits that there is no infirmity in the decision taken by the Competent Authority inasmuch as alternative plot can only be allotted to a legal heir of the person who was a recorded owner at the time his land was acquired and admittedly, Petitioner is the son of adopted son i.e. Nanak Chand of the recorded owner Sis Ram and cannot be allotted the land.

7. I have carefully perused the impugned rejection letter and the Scheme for alternative allotment which provides the eligibility criteria for allotment of alternative plots as well as the procedure thereof. It is stated in the Scheme that when the recorded owner of the land acquired dies before Notification under Section 4 of the LA Act, allotment is to be made



separately to all legal heirs of the deceased but if he dies after the Notification, all legal heirs are entitled to one plot of the size to which the deceased would have been entitled. The expression used is 'legal heirs' and this Court is unable to find any embargo in the Scheme which prevents a legal heir of an adopted son of the recorded owner from claiming allotment. Under Section 12 of the Hindu Adoption and Maintenance Act, 1956 (HAMA), an adopted child is deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and it is *prima facie* not open to the Respondents to carve out an exception to hold that the Petitioner is not a legal heir of late Sis Ram. Therefore, in my view, the impugned decision cannot be sustained and deserves to be set aside.

8. At this stage, Mr. B. Mahapatra, learned counsel appearing on behalf of Respondent No.2 submits, on instructions, that Respondents are willing to re-consider and re-visit the case of the Petitioner in light of the Scheme for allotment of alternative plots and Section 12 of the LA Act including the pending representation dated 29.10.2015.

9. In view of the fair submission made by Mr. Mahapatra, this writ petition is disposed of directing the Respondents to treat the present writ petition as a representation and decide the same within six weeks from today, in light of the Scheme, Section 12 of the LA Act and the judgment of this Court in ***Dharam Pal & Anr. v. Delhi Administration & Anr., 2009 SCC OnLine Del 869***, after giving a personal hearing to the Petitioner. Respondents shall intimate the date of personal hearing to the Petitioner in advance.

10. Needless to state that Respondents shall pass a reasoned and speaking



order which shall be communicated to the Petitioner within one week of the decision and it will be open to the Petitioner to take recourse to legal remedies, in case of any surviving grievance.

JYOTI SINGH, J

JULY 24, 2024/jg/shivam