



2024:DHC:2120



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

% Judgment delivered on: 14.03.2024

+ W.P.(C) 11273/2019

ASHOK MEHRA

..... Petitioner

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Samrat Nigam and Mr. Amit Punj,
Advocates

For the Respondent : Mr. Rishikesh Kumar, ASC with Ms.
Sheenu Priya, Mr. Atik Gill, Mr.
Sudhir Kumar Sharma and Mr. Sudhir,
Advocates for R-1.
Mr. Nalin Hingorani, Mr. Rajat Sharma
and Mr. Biraja Mahapatra, Advocates
for R-2.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India *inter alia* seeking the following prayers:-

“(i). Issue an appropriate Writ, Order or command in the



nature of certiorari or any other writ, to set aside the illegal and arbitrary order/minutes dated 08.08.2018, passed by the Respondents, whereby the Application/entitlement of the Petitioner for the allotment of alternate plot in lieu of the acquired land has been rejected.

(ii). Issue an appropriate Writ, Order or command in the nature of mandamus or any other writ, thereby directing the authorities concerned to allot alternative plot in the name of the Petitioner, in lieu of the acquired land, as he fulfills the requisite criteria to have allotment of alternate plot in his favour, in view of the policy of the Respondent, as expeditiously as possible.

(ii). Pass any such order or further order(s) which this Hon'ble Court may deem fit and proper in the fact and circumstances of the case."

2. Mr. Samrat Nigam, learned counsel appearing for the petitioner submits that despite the fact that the respondents have acquired the land of the petitioner in full, the respondents have arbitrarily and unjustly rejected the application of the petitioner for an alternative plot, which the petitioner was entitled to in terms of the Land Acquisition Policy.

3. The case of the petitioner is that the land in question i.e. Khasra No. 27//19 (4-0), 22 (4-16), 33//2 (4-16), situated in Village Holambi Kalan, Delhi, was acquired by the Government *vide* the Award No. 33/2003-04 dated 31.03.2004. According to the petitioner, the Government had taken actual possession of the entire land on 22.06.2004.

4. As per the terms of the policy which were then existing, the petitioner had applied for an allotment of alternate plot in *lieu* of the



compulsory acquisition of the land as also on the basis that no land thereafter was left with the petitioner at all. The petitioner since then had been following up with the said application in vain upto the year 2017. It was only in the year 2017 that the petitioner was informed that on account of non-acquisition of a small parcel of land, i.e. (0-3) Biswas falling in Khasra No. 22 min which is still in the name of the petitioner, the allotment of an alternate plot would not be permissible.

5. In order to seek clarification, petitioner filed number of RTI applications before the concerned authorities seeking the clarification in regard to the aforesaid objection. On 16.01.2018, the Tehsildar at Narela furnished a communication indicating that the demarcation of the aforesaid land would not be possible and that there is no record available with them which would indicate that the (0-3) Biswas of land still remains in the name of the petitioner or in his possession.

6. *Vide* the report dated 09.04.2018, the Tehsildar, Narela clarified that the entire land in Khasra No.22 min i.e. 4 Bighas and 16 Biswas had actually been acquired and possession of the entire land taken over by the department and as such, consequently, no land was left in the name of the petitioner in the revenue records.

7. The petitioner had received a notice of hearing dated 17.07.2018 directing the petitioner to present himself in person before the Recommendation Committee on 08.08.2018. On 08.08.2018, the petitioner was heard, however, the rejection of the application was on a wrong recording of the submissions that the petitioner himself submitted that he was in possession of (0-3) Biswas of land in Khasra No.22 min. On that basis, the petitioner's application was dismissed.



8. Mr. Nigam, learned counsel for the petitioner submits that the rejection is totally contrary to the records placed before this Court, in that, according to the report of the Tehsildar dated 09.04.2018 which is placed at page 37 of the present petition, the entire land i.e. 13 Bighas 12 Biswas, comprising the aforesaid khasra numbers was acquired in totality and no land at all was left over.

9. He also draws attention of this Court to *Khatouni* Consolidation issued by the Tehsildar, which also clearly and categorically indicated that the entire land was acquired *vide* the Award No. 33/2003-04.

10. He invites attention of this Court to the minutes of the Recommendation Committee, by virtue whereof the application was rejected to submit that though the Recommendation Committee had noted that the petitioner's reply was taken on record, however, the observations made in the rejection note was incorrect.

11. In order to buttress the aforesaid arguments, he invites attention of this Court to the written representation dated 08.08.2018 filed by the petitioner with the Recommendation Committee wherein the petitioner had categorically stated that he had no land left over at all which was conveniently overlooked by the Recommendation Committee.

12. In that view of the matter, Mr. Nigam prays that this Court directs the respondents to process the application of the petitioner for the purposes of allotment of an alternate plot of land in terms of the then existing policy.

13. *Per Contra*, learned counsel appearing for the respondent relied upon the Recommendation Committee's rejection dated 08.08.2018 to submit that that it was the petitioner himself who had admitted that



some part of the land is still remaining in his name and as such the said admission being contrary to the eligibility criteria, the application has been correctly rejected. He submits that infact the Recommendation Committee had taken note of the ratio laid down by the Supreme Court in ***Delhi Development Authority vs. Jai Singh Kanwar bearing Civil Appeal No. 8289-90 of 2010*** rendered on 14.09.2011 to also support the reason for rejection.

14. This Court has heard the arguments of the petitioner as also the respondents.

15. After hearing the submissions, it appears that the petitioner had not admitted that there is any land retained by him at all after the acquisition which is apparently clear from the written representation given to the Chairperson of the Scrutiny Committee on the day when the Scrutiny Committee had considered the application, i.e. 08.08.2018.

16. It is clear from the perusal of the said representation that in no uncertain terms, the petitioner had categorically mentioned that he was not left with any land after the acquisition. In fact the petitioner had referred to the applications filed by the petitioner to the Tehsildar who had issued the *Khatouni* Consolidation Report as also the Tehsildar's Report, which is at page 37 of the present petition, clearly disclosing that the petitioner was left with no parcel of land at all, after acquisition.

17. However, it appears that the Scrutiny Committee had overlooked these overwhelming documents which are placed on record. In any case, just to give benefit of doubt to the Recommendation Committee, this Court is of the considered view that it would be apposite in the facts of the case to direct the respondent-Committee to treat the present writ



2024:DHC:2120



petition alongwith documents, as a detailed representation on behalf of the petitioner and dispose of the representation within a stipulated period of time. The Scrutiny Committee shall consider the representation afresh, *dehors* the impugned order dated 08.08.2018.

18. In view of the aforesaid observations, it is directed that the Scrutiny Committee may treat the present writ petition, alongwith all the documents, as a representation and reconsider the matter once again in accordance with law. It is needless to point out that the said order shall be a reasoned and speaking order. The petitioner shall be provided with an opportunity of personal hearing. The place, time and venue shall also be indicated well in advance to the petitioner for such purpose. The said exercise be completed within a period of six weeks from today. The order shall also be furnished to the petitioner forthwith.

19. Needless to observe that the petitioner shall be entitled to take recourse to law in case any grievance is left over.

20. The petition is disposed in above terms.

TUSHAR RAO GEDELA, J.

MARCH 14, 2024

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