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

+ **W.P.(C) 12558/2024**

BHAGAT SINGH

.....Petitioner

Through: Mr. N.S. Dalal, Ms. Nidhi Dalal,
Mr.Alok Kumar, Ms. Rachana Dalal, Ms. Sweta
Kadyan, Mr. Karan Mann and Mr. Kunal Narwal,
Advocates.

versus

**LAND AND BUILDING DEPARTMENT,
THROUGH ITS SECRETARY LAND AND BUILDING
& ANR.**

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel with Ms. K.K. Kiran Pathak, Mr. Sunil
Kumar Jha and Mr. M.S. Akhtar, Advocates for
Respondents No.1 and 2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.09.2024

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1. This writ petition has been preferred on behalf of the Petitioner challenging the impugned order dated 22.06.2023 passed by Respondent No.2 whereby application of the father of the Petitioner for allotment of alternative plot has been rejected on the ground that before the allotment could be processed, it was found that wife of the Petitioner had acquired a property in her own name and therefore, Petitioner was not entitled to allotment in view of sub-clause (3) of Clause 'I' of the Scheme of Allotment which provides that the applicant should not own a house/residential plot/flat out of Village Abadi in his or her dependent relation's name including unmarried children, as per the judgment of the Supreme Court in



Delhi Devt. Authority v. Jai Singh Kanwar and Ors., Civil Appeal Nos. 8289/2010 and 8290/2010, decided on 14.09.2011.

2. Facts to the extent necessary and relevant are that father of the Petitioner was the owner of part of the land situated in Revenue Estate of Village Aali, Delhi. The said land was acquired vide two Awards i.e. Award No.1934-C/Suppl/81-82 dated 06.02.1981 and Award No.1934-D/81-82 dated 19.10.1981. By these Awards, the entire land of the father of the Petitioner was acquired and he received compensation on 26.04.2006 and 02.05.2006. After receiving compensation, father of the Petitioner applied for allotment of an alternative plot vide application dated 29.08.2006, which was given File No. F.32/90/204/06/L&B/Alt.

3. It is averred in the petition that father of the Petitioner expired on 14.12.2016, however, during his life time he had complied with all necessary formalities for allotment. After the death of his father, Petitioner pursued the application and filed all necessary documents from time to time. By order dated 15.10.2017, application for allotment of the alternative plot was dismissed without any notice to the Petitioner on the ground that requisite documents had not been submitted. This order was challenged in a writ petition in this Court being W.P.(C) No.5203/2018 and vide order dated 22.05.2018, Court set aside the order subject to cost of Rs.15,000/-, and directed the concerned authority to reconsider the case of the Petitioner. Cost is stated to be paid by the Petitioner.

4. It is further averred that Petitioner appeared before the authority concerned and satisfied that the Petitioner was entitled to the allotment and there was no impediment in his way. The application was, however, dismissed again by Respondent No.2 placing reliance on the judgment of the



Supreme Court in ***Jai Singh Kanwar (supra)*** and the order of this Court in ***Surender Singh Maan v. Government of NCT of Delhi & Anr., W.P.(C) No.12306/2015***, decided on 25.08.2017, on the ground that wife of the Petitioner had acquired a property in her name before the allotment could be processed. This order is assailed in the present petition by the Petitioner.

5. Mr. Dalal, learned counsel for the Petitioner submits that the impugned order is wholly arbitrary and illegal. It is submitted that under the old policy, if the applicant or the dependant family member owned a property within the Abadi, there was a bar in allotment of an alternate plot, however, the policy changed and under the new policy dated 03.04.1986, there is a prohibition against allotment only where the property is outside the Abadi. This, according to Mr. Dalal, is because the authorities realized that owning a house within the Abadi was more often than not a necessity and compulsion, as agricultural operations can be carried out only by residing in the vicinity of the agricultural land and the scheme of alternative plot was only applicable where acquisition was with respect to agricultural lands. Respondents are completely misreading the policy and if their contention is accepted, in most cases persons will be ineligible for allotment of alternative plots and policy will be rendered *otiose*.

6. Mr. Dalal also argues that reliance on the judgment in ***Jai Singh Kanwar (supra)***, is misplaced as in that case the total land, which was sought to be acquired was not acquired whereas in the present case, the entire land of Petitioner's father was acquired. The other distinguishing factor is that in the said case, on a factual note, application was not moved by the original owner, namely, Chajju but was made by his grandson. It is, therefore, urged that the application for allotment of alternative plot requires



to be re-considered in consonance with the new policy dated 03.04.1986 as all requisite documents have already been submitted by the Petitioner.

7. Issue notice.

8. Mr. Sanjay Kumar Pathak, learned Standing Counsel accepts notice on behalf of Respondents No.1 and 2.

9. Heard learned counsels for the parties and examined their contentions.

10. Mr. Pathak has taken a position that the impugned order is justified and is based on the observations of the Supreme Court in *Jai Singh Kanwar (supra)*. The purpose of allotment of an alternative plot is to provide shelter to a person who does not own a house/residential plot/flat as a rehabilitative measure mainly to ensure that those farmers whose lands have been acquired do not become homeless or landless. In the present case, Petitioner's wife acquired property in her own name before the case could be processed for allotment and since she is dependent on the Petitioner, alternate plot cannot be allotted as that would be against the scheme and the judgment of the Supreme Court.

11. Having perused the writ petition and having heard learned counsel for the parties, in my view, it would be appropriate at this stage to dispose of the writ petition with a direction to the Competent Authority to re-visit and re-consider the case of the Petitioner keeping in view the legal issues raised by the Petitioner in the present petition within the four corners of Respondents' own policy dated 03.04.1986. The Competent Authority shall treat this writ petition as a representation and decide the legal issues raised therein keeping in backdrop the provisions of the said policy as well as the factual averments in the writ petition that Petitioner's wife or the Petitioner do not own a house outside the Abadi area, which appears to be the prime objective of the



change in Policy by the Respondents. The decision will be taken by the Competent Authority within 8 weeks from date of receipt of this order and needless to state that a speaking order shall be passed giving reasons, in case the Competent Authority does not agree with the issues raised by the Petitioner. The decision will be communicated within a week thereafter to the Petitioner, who will be at liberty to take recourse to appropriate legal remedies, if so advised. If the decision is in favour of the Petitioner, the Competent Authority shall process the case of the Petitioner for allotment of alternative plot, in accordance with the Policy.

12. Writ petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 9, 2024/B.S. Rohella/kks