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

+ **W.P.(C) 3169/2018**

SH. BHAWAR SINGH

.....Petitioner

Through: Mr. L.B. Rai and Mr. Rohit Kumar
Poddar, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Biraja Mahapatra and Mr. Nalin
Hingorani, Advocates for Respondent
No.1/GNCTD.

Mr. Shlok Chandra and Mr. Sankalp Sharma,
Advocates for Respondent No.2/DDA.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

10.12.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to rejection order dated 16.11.2017 passed by Respondent No.1, whereby application of the Petitioner for grant of alternative land in terms of policy of Respondent No.1 has been rejected.

2. Facts to the extent relevant and as averred in the writ petition are that Petitioner is the recorded owner of 1/35th share of agricultural land measuring 39 bighas and 9 biswa comprised in Khasra No. 45(7-10), 847/46/4min (17-07), 53min (12-07), 213/1 (2-05) situated in Village Ghonda Gujran Khadar, Illaqa Shahdara, Delhi. It is stated that the land was



acquired on 19.06.1992 under an Award No.8/92-93 and compensation was received on 19.09.2016. Father of the Petitioner, namely Late Sh. Munshi Ram expired on 24.03.1999 leaving behind five legal heirs which includes the Petitioner. Being one of the legal heirs, Petitioner applied for allotment of alternative plot in lieu of acquired land vide application dated 19.02.2008. On 01.08.2016, Petitioner received a letter from Respondent No.1 wherein certain deficiencies were pointed out in the application. As per the Petitioner, the documents sought were not available with him and therefore, vide letter dated 03.10.2016, two months' time was sought for producing the documents.

3. It is further averred that by another letter dated 11.11.2016, Respondent No.1 instructed the Petitioner to furnish an affidavit undertaking that he did not own immovable property in the urban area of Delhi, which the Petitioner did, however, vide letter dated 16.11.2017, Petitioner was informed that his application could not be entertained since the land of the applicant had not been acquired in entirety and reliance was placed on the judgment of the Supreme Court in ***Delhi Administration & Another v. Jai Singh Kanwar & Others, Civil Appeal No.8289/2010***, decided on 14.09.2011.

4. Learned counsel for the Petitioner submits that the reason for rejection of the application of the Petitioner for alternate plot is wholly erroneous and factually incorrect. It is submitted that Petitioner was the recorded owner of 1/35th share of agricultural land measuring 39 bighas and 9 biswa comprised in Khasra No. 45(7-10), 847/46/4min (17-07), 53min (12-07), 213/1 (2-05) situated in Village Ghonda Gujran Khadar, Illaqa Shahdara, Delhi and the entire land was acquired under the acquisition proceedings and an Award



bearing No.8/92-93 was pronounced on 19.06.1992. It is urged that the entire compensation was also received and therefore, it is incorrect to state that entire land of the Petitioner was not acquired. Learned counsel submits that a specific averment to this effect has been made in paragraphs 3 and 4 of the writ petition.

5. *Per contra*, learned counsel for Respondent No.1 submits that as per the report of *Tehsildar*, Khasra Nos. 795(5-17), 796(5-12), 797(11-5) and 195min (3-05) situated in the Revenue Estate of Village Ghonda Gurjan Khadar, Delhi remain in the name of Late Munshi Ram, father of the Petitioner. The *Kanoongo* also examined the matter and vide note dated 14.12.2016 confirmed the said position. As far as paragraphs 3 and 4 of the writ petition are concerned, the details of land mentioned therein differ from the Khasra numbers mentioned in the impugned order and therefore, the averments are of no avail to the Petitioner. It is argued that in view of the judgment of the Supreme Court in ***Jai Singh Kanwar (supra)***, Petitioner is not eligible for grant of alternative plot as his entire land was not acquired and this is the basis of the impugned order.

6. Heard learned counsels for the parties and examined their submissions.

7. Indisputably, Petitioner applied for allotment of alternate plot on 19.02.2008 in lieu of the alleged acquisition of his entire land and on receipt of compensation. The narrow controversy before this Court is whether the entire land of the Petitioner was acquired or not. There is no dispute that under the policy of Respondent No.1, which was introduced in 1961 and subsequently amended in 1986, only those persons are entitled for alternate plot whose entire lands have been acquired for the purposes of development



so as to ensure that they are not rendered homeless or landless in the event of acquisition of their lands. This position of law is settled by the Supreme Court in ***Jai Singh Kanwar (supra)*** and relevant passages from the judgment are as follows:

“5. We find that the High Court has not addressed the crucial and fundamental issue relating to eligibility. Under the Scheme, only a land loser who did not own a house/residential plot/flat in his own name or in the name of his spouse or dependent relation, and who was not a member of any Co-operative Housing Society was entitled for allotment of plot. The relevant date for this purpose is the date of award, namely, 24.11.1969. Chhajju Singh did not alive till 1976. Among his six sons, only one son made an application on 4.12.1985 sixteen years after the award.

6. Neither the application nor the documents produced by the applicant Om Singh Kanwar averred or established that Chhajju Singh did not own a plot or flat or residential house and that he was not a member of any Co-operative Housing Society. In the circumstances, the fundamental requirement for making an application was absent. The object of the Scheme is that when the land owned by a person is taken away in entirety and he is left without any house or plot, he should be allotted a plot. The Scheme therefore provided that only a person who does not own a house/residential plot/flat will be entitled to apply. The first respondent did not deny the fact that the Chhajju Singh did own a house in the year 1969. That apparently is the reason why he did not apply under the scheme. Nearly a decade after his death, an application was made by one of his sons. But what is to be considered is the position of the land loser on the date of the award. Therefore the appellant, who is one of the grand sons of Chhajju Singh is not entitled to seek allotment of a plot under the scheme by suppressing the fact that Chhajju Singh owned a house in 1969.”

8. Broadly understood, case of the Petitioner is that the entire land of the Petitioner being of 1/35th share of agricultural land measuring 39 bighas and 9 biswa comprised in Khasra No. 45(7-10), 847/46/4min (17-07), 53min (12-07), 213/1 (2-05) situated in Village Ghonda Gujran Khadar, Illaqa Shahdara, Delhi, was acquired and in support reliance is placed on Award



No.8/92-93. Copy of the award has been filed along with the writ petition, however, on a bare perusal of the Award, the Khasra numbers which are stated to be unacquired in the impugned order are not mentioned in the Award. On a pointed query to learned counsel for the Petitioner, he is unable to point out to the contrary. Once the Khasra numbers mentioned in the impugned order are not a part of the Award, copy of which the Petitioner has himself filed, no infirmity can be found in the impugned decision whereby Petitioner's application has been rejected solely on the ground that the said land was not acquired. Counsel for the Petitioner also fairly concedes that whenever acquisition of lands takes place by virtue of a notification under Section 4 of the Land Acquisition Act, 1894, the details of the acquired land are mentioned in the Award. Reading of the averments in paragraphs 3 and 4 of the writ petition, on which heavy reliance is placed by the Petitioner, shows that the Khasra numbers mentioned do not match with those in the impugned order which explicitly means that parcels of land were in fact not acquired. In view of this position, this Court is unable to come to the aid of the Petitioner. There is no legal infirmity in the impugned order dated 16.11.2017 and the writ petition is, accordingly, dismissed.

JYOTI SINGH, J

DECEMBER 10, 2024

B.S. Rohella