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

% ***Date of Decision: 20th February, 2025***

\+ W.P.(C) 5697/2018 & CM APPL. 22147/2018

SH. HARI RAM AND ANR. .....Petitioner

Through: Mr. Pankaj Vivek with Mr. Suryansh Jamwal, Mr. Harsh Kumar Singh, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR. .....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

19

\+ W.P.(C) 5702/2018 & CM APPL. 22158/2018

MUKESH KUMAR GAHLOT .....Petitioner

Through: Mr. Pankaj Vivek with Mr. Suryansh Jamwal, Mr. Harsh Kumar Singh, Advocates.

versus

GOVT OF NCT OF DELHI & ANR .....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

20

\+ W.P.(C) 5703/2018 & CM APPL. 22160/2018

SH. BALDEV SINGH .....Petitioner

Through: Mr. Pankaj Vivek with Mr. Suryansh Jamwal, Mr. Harsh Kumar Singh, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR. .....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

21

\+ W.P.(C) 5704/2018 & CM APPL. 22162/2018

MANGE RAM & ANR .....Petitioner

Through: Mr. Pankaj Vivek with Mr. Suryansh Jamwal, Mr. Harsh Kumar Singh,

Advocates.

versus

GOVT OF NCT OF DELHI & ANR .....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

22

\+ W.P.(C) 5735/2018 & CM APPL. 22248/2018

SH. LAL CHAND .....Petitioner

Through: Mr. Pankaj Vivek with Mr. Suryansh Jamwal, Mr. Harsh Kumar Singh, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR.

.....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

23

\+ W.P.(C) 6176/2018

VIJAY KUMAR VATS .....Petitioner

Through:

versus

DELHI DEVELOPMENT AUTHORITY .....Respondent

Through: Ms. Manika Tripathy and Ms. Kritika Gupta, Advocates for DDA.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T *(oral)*

1. Since all the above said writ petitions raise same issue, these have been taken up together and are being disposed of by this common judgment.

2. The issue involved is short and precise.

3. All the petitioners, barring petitioner Vijay Kumar Vats had land in Village Kakrola, Delhi. Petitioner Vijay Kumar Vats had land in Village Mehrauli, New Delhi.

4. Their such land was acquired for "*planned development"* of Delhi.

5. The possession of land was taken from them and they were also paid compensation.

6. According to petitioners, there is a scheme known as *"Scheme of Large Scale Acquisition Development and Disposal of Land"*. It was formulated by the Government of India in the year 1961 and as per the above said scheme and policy, any such petitioner, whose land is acquired for the development of Delhi is, besides, compensation, entitled to an alternative plot.

7. As per petitioners, as per the existing policy and procedure, the plots are allotted zone-wise and, therefore, plots are allotted in Dwarka (for recommendees of South Delhi, East Delhi and Dwarka), Rohini (for recommendees of Rohini, North Delhi and West Delhi) and Narela (for recommendees of Narela).

8. Such policy had been consistently followed and shifting of zones was not permitted. They contend that such policy has acquired status of law as rights of the citizens have become associated with the same. Thus, the petitioners had developed a legitimate expectation that the plots would be allotted zone-wise as per the zone mentioned in their recommendation letters. It was also contended that the above allotment was a rehabilitation measure for the persons living in Village abadi so as to give them a chance to upgrade their living standard. Allotment of plots in nearby locality (within the same zone) would have made sense as the allottee would be able to retain connection with their roots and maintain relation with family and friends who were still living in the Village abadi.

9. The petitioners completed the requisite formalities and eventually

recommendation letters were issued, thereby recommending DDA to allot plot(s) in the South-West Zone of Delhi.

10. The recommendation letters had mentioned clearly that the plots were recommended to be allotted in the South-West zone. However, DDA published a notice in newspapers on 24.04.2018 that the alternative plots shall be allotted to the eligible recommendees including the petitioners herein in Narela Zone.

11. According to petitioners, there was no reason for allotment of plots in Narela zone as sufficient land was already available in upcoming sectors of Dwarka Phase-2, falling in South-West Zone.

12. The grievance in the present writ petitions is to the effect that though they were entitled for allotment of plot(s) in South-West Zone, where plots were even available with DDA, the respondent DDA, while taking a decision against the spirit and aim of the rehabilitation policy, has offered them alternate plot(s) in Narela.

13. Learned counsel for DDA, however, refutes the above contentions and submits that issue is no longer *res integra*. It is submitted that as per settled legal position, no such individual can insist for allotment in any particular area. Reliance is placed on *Ram Kumar versus Delhi Development Authority and Another: 2019 SCC OnLine Del 8312,* and common order dated 20.07.2022 passed by this Court in *Sh. Ved Prakash vs Union of India and Ors India in W.P. (C) No. 4711/2018, Sh. Rajesh and Ors. versus Union of India in W.P. (C) No. 5014/2018, Sh. Munna Pal versus Union of India and Ors. W.P. (C) No. 5291/2018* and *Sh. Subhash Chand and Ors versus Union of India and Ors. W.P. (C) No. 5356/2018*.

14. It is submitted that in those cases also, the petitioners had been

allotted plots at Narela and were seeking direction to DDA to allot them alternate plot in Dwarka. The grievance of the petitioners therein was, virtually, the same as they wanted allotment in a better zone i.e. Dwarka and their such contention was rejected.

15. It has also been contended by learned counsel for DDA that as a matter of policy, DDA does not allot plot in a developed area like Dwarka and that such type of alternate allotment is done only with respect to those areas, which are developing. It is submitted that Narela was a developing area and, therefore, the petitioners could not have been offered alternative plot at Dwarka. It is argued that petitioners cannot, as a matter of right and also in view of the above precedents, lay claim over any particular area, as such.

16. Reference be now made to *Ram Kumar versus Delhi Development Authority and Another*: *2019 SCC OnLine Del 8312* wherein this Court has, in no uncertain terms, observed as under: -

> *" 92. The only other aspect, which is required to be examined, is whether the petitioner would be entitled to allotment of an alternative plot at Dwarka, instead of Narela. That the policy, which would govern the allotment of the alternative plot, would be the policy in existence on the date of allotment, is no longer res integra, having been settled by a catena of authorities, including the judgment of the Supreme Court in Amolak Raj v. Union Of India, MANU/SC/1147/2002; JT 2002 (10) SC 86, on which Mr. Relan places reliance. In fact, Amolak Raj (supra) also effectively seals the submission, of Mr. Rao, that I should depart from the law laid down in Ramanand (supra). The facts, as noted by the Supreme Court in Amolak Raj (supra) disclose that, against the acquisition of his land, the appellant, before the Supreme Court, was allotted a plot of land, admeasuring 250 square yards, in the Rohini Residential Scheme". Dissatisfied with the said allotment, the appellant moved this Court, contending that he was entitled to allotment of a plot admeasuring 800 square yards. He also complained about the area in which the allotment had been made. The Supreme Court noted the reliance, by this Court, on its earlier Full Bench judgment in Ramanand (supra), in the following words:*

"The full bench of the High Court in the case of Ramanand (supra), noticed in the impugned judgment, held that a person whose land has been acquired has no absolute vested right to claim allotment of a plot as a matter of right; of course if a scheme provides for allotment of alternative plot, the same could be considered based on the scheme and the policy; it is clear from the records that the scheme of allotment of alternative plots for the persons whose lands are acquired was modified from time to time; the appellant was allotted a plot as per the prevailing policy and the scheme as on the date of allotment. In our view, the appellant could not claim to be allotted a plot in a particular area of his choice, even the recommendation made in his favour as extracted above clearly shows that allotment of alternative plot was subject to availability of plot with the DDA and that recommendation for allotment was not a legal commitment for allotment of alternative plot. In this view, the High Court was right in dismissing the writ petition following its earlier full bench judgment."

93. Mr. Rao, too, candidly admitted that the policy, governing the allotment of the alternative plot, would be as existing on the date of allotment.

94. As regards the policy of the DDA, regarding allotment of alternative plots to persons whose lands were acquired, Mr. Relan has invited my attention to the communication, dated 24th November, 2005 supra, addressed by the Delhi Development Authority, Land Costing Wing [Projects Branch], clearly stating that alternative plots could not be allotted in Dwarka as it was a developed area. This communication remains unchallenged. Furthermore, the minutes of the meeting, dated 6th February, 2018, of the Screening Committee of the DDA, too, refers to the "decision taken in 2006 regarding allotment of alternative plots only in upcoming projects" which, apparently, has not been revisited till date. It is apparent, therefore, from the record, that, since 2005/2006, there has been an extant policy, of the DDA, not to allot "alternative plots", to persons whose lands stood acquired, except in upcoming projects, or in developing areas. A policy decision stands taken, by the DDA, not to allot' alternative plots" in areas which have, with the passage of time, developed, and the land value of which has increased multifold. The wisdom of this policy is not called into question in the present writ petition; consequently, the DDA cannot be faulted in deciding to allot, to the petitioner, the alternative plot at Narela, instead of Dwarka. The petitioner had, indeed, been allotted an alternative plot at Dwarka on 25th June, 2010, when the area was still developing, but, owing to the

petitioner's own lassitude, the allotment could not fructify. Opportunity, however, never knocks twice, and the petitioner cannot, now, seek to capitalize on the benevolence of the DDA in allotting the petitioner yet another alternative plot, despite his having foregone the allotment made in his favour in 2010, by his own default.

95. The decision, of the DDA, to allot "alternative plots", which, by virtue of the law, have necessarily to be allotted at predetermined rates, only in developing areas, and not in areas which stand fully developed and in which land values have escalated, is backed by sound commercial considerations, which are inextricably intertwined with good governance. The development of Delhi is, constitutionally and statutorily, vested in the DDA, and depletion of its coffers can never be in public interest.

96. There is another, and more empirical, aspect of the matter. It cannot be said, with any modicum of legitimacy, that the DDA has any axe to grind against any person to whom land is to be allotted by it, or that it acts mala fide in that regard. To be fair, no such mala fides have been alleged, either, by the petitioner. The decision of allotment of alternative plots, to persons whose lands have been acquired, is, at all times, essentially and fundamentally a decision of policy. So long as the decision does not result in unconstitutional, or unjust, deprivation of the right of the citizen to property, it remains substantially immune from judicial review. Courts are not the best, or even the better, arbiters of the areas in which alternative plots are to be allotted, or the price at which such allotments are to take place. Caution and circumspection must necessarily inform the decision of any court which is called upon to sit in judicial review over policy decisions. Policy decisions which derogate from public interest, unquestionably, may be justifiably decapitated by the judicial scimitar. However, assessment of public interest is itself an intricate, and involved, exercise, and the court must desist from the temptation of adopting any watchdog approach in this regard. The DDA, like any public authority of similar standing, is presumed to act in public interest, and in full awareness thereof. The ultimate duty of the DDA is to ensure the development of Delhi as efficiently, and in as optimum a manner, as is possible, and, in discharging the said duty, the DDA has necessarily to be allowed the latitude to exercise discretion, vested in it for the said purpose, as it thinks best. Even if, in a given case, the Court were to feel that the DDA could have acted otherwise, restraint has, nevertheless, to be exercised, and deference accorded to the subjective discretion conferred, by law, on the DDA.

> *97. Thus viewed, it is clear that the petitioner cannot claim any enforceable right to be allotted an alternative plot at Dwarka, or that such allotment should be at a price which is "commensurate to the rate at which" his land was acquired in 1981.*
>
> ***Conclusion***
>
> *98. For the foregoing reasons, I am of the opinion that the prayers in the writ petition cannot be granted.*
>
> *99. The writ petition, accordingly, stands dismissed, with no order as to costs."*

17. While relying on the above said judgment of *Ram Kumar versus Delhi Development Authority* (supra), this Court *vide* common order dated 20.07.2022 (supra) also came to the same conclusion. Learned Single Judge also observed that the legitimacy and validity of the resolution in question had already been tested and upheld in *Ram Kumar versus Delhi Development Authority and Another* (supra) and, therefore, there was no ground to entertain those petitions and, accordingly, all those writ petitions were dismissed.

18. It needs no discerning eyes to find out that the position is identical in these writ petitions also.

19. Therefore, in view of the abovesaid settled legal position, petitioners cannot stake their claim to alternative allotment in a better zone or a developed area.

20. Learned counsel for petitioner has drawn the attention of this Court towards Rules 6, 12 and 16 of *Delhi Development Act (Disposal of Nazul Land) Rules, 1981* (hereinafter referred to as "the Nazul Land Rules").

21. These read as under:-

> ***"6. Allotment of Nazul land at pre-determined rates***
>
> *Subject to the other provisions of these rules, the Authority shall*

allot Nazul land at the pre-determined rates in the following cases namely:-

(i) to individuals whose land has been acquired for planned development of Delhi after the 1st day of January,1961, and which forms part of Nazul land:

PROVIDED that if an individual is to be allotted a residential plot, the size of such plot may be determined by the Administrator after taking into consideration the area and the value of the land acquired from him and the location and the value of the plot to be allotted;

(ii) to individuals in the low income group or the middle income group other than specified in clause (i) -

(a) who are tenants in a building in any area in respect of which a slum clearance order is made under the Slum Areas Act;

(b) who, in any slum area or the other congested area, own any plot of land measuring less than 67 square metres or own any building in any slum area or other congested area;

(iii) to individuals, other than those specified in clauses (i) and (ii), who are in the low income group or the middle income group, by draw of lots to be conducted under the supervision of the Land Allotment Advisory Committee;

(iv) to individuals belonging to Scheduled Castes and Scheduled Tribes or who are widows of defence personnel killed in action, or ex-servicemen, physically handicapped individuals subject to the provisions of rule 13;

(i) to industrialists or owners and occupiers of warehouses who are required to shift their industries and warehouses from non-conforming areas to conforming area under the Master Plan, or whose land is acquired or is proposed to be acquired under the Act:

PROVIDED that the size of such industrial plot shall be determined with reference to the requirement of the industry or warehouses set up or to be set up in accordance with the plants and such industrialists and owners of warehouses have the capacity to establish and run such

industries or warehouses and on the condition that the land allotted at pre-determined rates shall not, in any case, exceed the size of the land which has been, if any, acquired from such industrialist or owners and occupiers of warehouses and which form part of Nazul land:

PROVIDED FURTHER that in making such allotment, the Authority shall be advised by the Land Allotment Advisory Committee;

(ii) to co-operative group housing societies, co-operative housing societies, consumer co-operative societies and co-operative societies of industrialists on "first come first served basis".

……

12. Priority of allotment for residential purposes

Subject to the availability of land for allotment for residential purposes, among the individuals referred to in clauses (i) and (ii) of rule 6, the individuals referred to in clause (i) shall be preferred to the individuals referred to in clause (ii) and those in clause (ii) shall be preferred to those in clause (iii).

……

16. Certain persons entitled to allotment by auction

Subject to the other provisions of these rules, all [1][individuals including the following categories of individuals, companies and firms], shall be entitled to the allotment of Nazul land for residential purposes, by auction, namely:

(i) individuals not residing in any building owned by them in any slum area in respect of which a slum clearance order is made under the Slum Areas Act;

(ii) individuals whose land situated in any such area as is referred to in clause (i) is acquired under the Slum Areas Act and who reside elsewhere;

(iii) individuals who do not accept allotment on conditions mentioned in rules 9, 10 and 11 and who are not entitled to allotment under rule 15;

(iv) co-sharers of joint ancestral land or buildings in a slum

> *area under the Slum Areas Act whose individual share is not less than 67 square metres in such land or building."*

22. It has been submitted by learned counsel for petitioners that by virtue of the above said Rules, petitioners are, as a matter of right, entitled to allotment of an alternative plot in the same area where the acquired land was situated. He submits that the Nazul Land Rules, being social welfare legislation, ought to be interpreted in favour of the landholders and such landholders, are required to be allotted land in the same zone in which the land, which was acquired, was situated.

23. The tenability of all such contentions has already been tested by this Court in *Ram Kumar versus Delhi Development Authority and Another* (supra) wherein learned Single Judge while relying upon *Ramanand versus Union of India and Others: AIR 1994 Del 29*, observed as under: -

> ***"51.*** *With respect to Rule 4 of the Nazul Rules, it was sought to be contended, by Ramanand, that, as the said Rule directed that allotment had to be made subject to other provisions of the Nazul Rules, Rule 12 of the said Rules required that individuals, whose land had been acquired, were entitled to an overriding and preferential right to allotment of land, as against others. However, regarding this argument, the Full Bench held thus (in para 22 of the report):*
>
> *"It was contended, on the basis of rule 12, that the individuals whose land has been acquired, as against the others, should be given over-riding and preferential right to allotment of residential land. This proposition would hold good only to the extent of priority for allotment inter-se the individuals referred to in clauses (i), (ii) and (iii) of rule 6. Rule 12 does not place the individuals mentioned in clause (i) at any advantage or over-riding position in relation to the other sub-categories of individuals referred to in clause (iv) or clause (v) of rule 6 itself, much less in relation to the other categories of persons named in rule 4. In any event, the provisions made in rule 13 expressly impinge upon availability of residential plots for allotment to various categories of individuals. It casts upon the DDA a duty, in mandatory terms, to reserve a certain percentage of Nazul land available for residential purposes at any given time, for allotment to individuals*

placed in a special category, who are members of the Schedule Castes and Schedule Tribes, widows of defence personnel killed in action, ex-servicemen, physically handicapped individuals etc."

(Emphasis supplied)

52. *Perhaps the most significant passages in Ramanand (supra), especially in view of the somewhat radical submission, of Mr. Rao, that I should, sitting singly, ignore the decision of the Full Bench as it was per incuriam, and also not in line with the "march of judicial thought" that has taken place since the pronouncement of the said judgment, till today, are paras 24 and 25 of the report which, therefore, may be reproduced, in extenso, thus:*

*"**24.** Rule 6, in reality, controls the rates of premium chargeable only in those cases where land is allotted to the persons mentioned therein. In other cases, the rules provide for sale of land at the market price determined by the highest bid on public auction of land. Thus, the principle expressed in the form of 'exception' in clause 8 of the 1961 Scheme, which has already been discussed above, is embodied into the Nazul Rules. Where the DDA decides to allot Nazul land to the persons named in this rule, it is bound to charge premium from the allottees only at the predetermined rates. The right and corresponding duty contained in this rule is of a different kind than that sought to be invoked by the petitioner. **The right or entitlement of any one to allotment of Nazul land is not regulated by this rule. It regulates only the rate at which premium shall be chargeable in certain cases**, and it restricts the liability of allottees, in specified cases, to pay premium for allotment of Nazul land at the pre-determined rates, and no less and no more.*

25. Rule 6(i) Proviso, undoubtedly, provides for determination of the size of the plot by the Administrator if an individual is to be allotted a residential plot. But, the power to make the allotment lies within the domain of the DDA. The Administrator, being the land acquiring authority, is to verify whether the land of an individual applicant is acquired, and the area and value thereof. On these facts, then, the DDA, who is entrusted with the power and function of development and disposal of land, would examine the matter, in the light of the plans and the other rules, and decide whether a plot may be allotted to him, and, if so, of what size and where. It cannot be said, on the basis of this provision, that the right to allotment of a plot would accrue, merely on verification of the claim, and even on the basis of recommendation made by the Administrator in favour of the individual whose land is acquired."

(Emphasis supplied)

> ***53.*** *The above extracted passages are of stellar significance, in appreciating, and dealing with, the submissions of Mr. Rao. One of Mr. Rao's main submissions - which he reiterated several times - was that, had the Full Bench been made aware of the judgments of the Supreme Court in Pista Devi (supra) and Hansraj (supra), it might have interpreted Rule 6 of the Nazul Rules differently. A reading of paras 24 and 25 of the report in Ramanand (supra), however, makes it clear that no such possibility could be said to exist, even if one were to take the liberty to so hypothesize. Ramanand (supra) clearly held that Rule 6 of the Nazul Rules did not deal with the right, of a person whose land was acquired, to allotment of alternative land, at all, and dealt only with the rate of premium, in the event land was allotted. Once, according to the Full Bench, Rule 6 of the Nazul Rules did not deal with the right to allotment of alternative plot, consequent to acquisition of land, there could be no question of the Full Bench possibly having taken a different view, were its attention drawn to the judgments in Pista Devi (supra) or Hansraj (supra). This argument of Mr. Rao, therefore, is rejected.*
>
> ***54.*** *Needless to say, the decision, of the Full Bench, in Ramanand (supra) that Rule 6 of the Nazul Rules does not deal, at all, with the right, of a person whose land has been acquired, to allotment of any alternative plot, is binding on me, no decision, to the contrary, having been cited before me by either side."*

24. Thus, no real benefit can be drawn by the petitioners from said Rules, either.

25. Reference be also made to *Ramanand versus Union of India and Others* (supra). The grievance of the petitioner therein was that as per recommendation, he was entitled to allotment of a plot of larger size but DDA had not only reduced the size of the plot while giving allotment but was also demanding payment of exorbitant amount as premium. It was contended that DDA was duty bound to allot him a plot of the size recommended and at the rate when his right of allotment had accrued.

26. In the aforesaid case, questions posed were as under: -

> *(i) Whether a person whose land has been acquired for planned development of Delhi has got a vested right to the allotment of alternative plot of land for residential purposes?*
>
> *(ii) What is the relevant date with reference to which premium at predetermined rates would be chargeable from such a person for allotment of the residential plot – should it be the date when his land is acquired, or when he makes the application to the Administrator of the Union Territory of Delhi for allotment, or when the allotment is made by the Delhi Development Authority under the Nazul Rules?*

27. The Full Bench of this Court held that any landholder, whose land has been acquired by DDA for planned development of Delhi, cannot, as a matter of absolute right, seek allotment of an alternate plot though certainly such individual is entitled to be considered for allotment of plot, subject to Nazul Rules and availability of plots and also as per seniority. It was observed that such individual was merely eligible to be considered for allotment of alternative plot for residential purpose and DDA may allot Nazul land to such individual in conformity with the plans and subject to other provisions of Nazul Rules.

28. Thus, evidently, since any such claimant has no absolute or vested right in seeking allotment of alternative plot, such claimant cannot, as a necessary corollary, seek allotment of plot in a particular area, either.

29. This Court, therefore, does not find any merit in the present writ petitions and the same are, accordingly, dismissed.

30. No order as to costs.

(MANOJ JAIN)
JUDGE

FEBRUARY 20, 2025/*sw*