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**(2006) 08 DEL CK 0234**  
**In the Delhi High Court**  
**Case No : WP (C) No. 244 of 1993**

Om Prakash

APPELLANT

Vs

Lt. Governor of Delhi and Others

RESPONDENT

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**Date of Decision :** 03-08-2006

**Acts Referred:**

Constitution of India, 1950 — Article 14  
Delhi Development Act, 1957 — Section 21, 21(1), 21(2), 60  
Disposal of Nazul Land Rules, 1981 — Rule 4, 6  
Land Acquisition Act, 1894 — Section 4

**Citation :** (2006) 08 DEL CK 0234

**Hon'ble Judges :** S. Ravindra Bhat, J

**Bench :** Single Bench

**Advocate :** O.P. Malviya, for the Appellant; Sanjay Poddar and Sangeeta Chandra, for the Respondent

**Final Decision :** Dismissed

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## Judgement

S. Ravindra Bhat, J.—In these proceedings the relief claimed by the Petitioner is for an appropriate writ directing the Respondents to allot an alternative plot meaning 400 sq. yards irrespective of the eligibility criteria spelt out by them.

2. The brief factual matrix necessary for deciding this case is that two parcel of lands which belonged to the Petitioner were acquired. The first was two thirds share in 18 bighas 12 bids was in khasra No. 1013/241/1 and 22 bighas 6 bids was in khasra No. 1330/642/349, acquired by virtue of a notification dated 15.5.1945 u/s 4 of the Land Acquisition Act, for the benefit of the Delhi Improvement Trust, which is the predecessor of the Delhi Development Authority (hereafter called as the "DDA"). The second parcel of land was 5 bighas and a half bids was land in khasra No. 615/16 for the planned development of Delhi, notified on 13.11.1959 in respect of which an award was framed on 11.8.67. This was for the benefit of the DDA.

3. It is an undisputed fact that the Petitioner received compensation in respect of

both the notified lands; as far as the first parcel is concerned, the award was made in 1961; he received compensation in 1968 and in respect of the second parcel of 5 bigha and half bids was land the award was made in 1967.

4. The Petitioner claims that the DDA has acted in a discriminatory manner in not allotting an alternative plot in respect of either of the acquired lands which, he was entitled to in terms of Section 21 of the Delhi Development Act.

5. The Petitioner has specifically urged that the Respondents disregarded the previous acquisition in 1945, while considering the issue of allotment of an alternative plot. In this regard he has challenged the determination of the Government of NCT dated 29.5.1992 by which his request was turned down.

6. During the course of the proceedings the original Petitioner expired; his legal representatives were substituted and brought on record.

7. Mr. Malviya invited my attention to Section 21 of the Act and said that neither the DDA nor the NCT could act in a discriminatory manner as far as lands acquired for public purpose whether it was for planned development of Delhi or for any public purpose recognized under the Land Acquisition Act, the landowner was entitled to the benefit of the scheme for alternative plot. It was secondly urged that in terms of Section 60, the DDA became the successor and the benefit enacted in terms of Section 21 had to naturally flow to all the land owners whose land were acquired whether it was acting before or after the coming of the Act, into force.

8. The position of the Respondents is that as far as the earlier acquisition of 1945 is concerned there is no liability or obligation on the part of the DDA or NCT to offer an alternative plot. As per the law guidelines and circulars the Petitioner was not entitled to alternative plot. He cannot Therefore claim the benefit of letters and circulars which entitled the outsiders or land owners whose estates or lands were acquired pursuant to scheme formulated under the DDA Act. Mr. Poddar, learned Counsel for the Respondent NCT and Ms. Chandra, for the DDA placed reliance on the circular dated 2.5.1961, particularly para 8 to say that the first policy for allotment of alternative plot was formulated much after the acquisition in question namely in 1945; it was framed in 1961. The object of this policy was specifically to cater to outsiders or land owners, of those whose lands were acquired under the notification for large scale acquisitions of land dated 7.3.57, 3.9.57, 13.11.59 and 10.11.60.

9. It was pointed out that the concession would not be available in case of individuals effected by two earlier notifications if the acquisition proceedings were completed. It is also urged that the right to claim an alternative plot and an obligation to provide it cannot be located in Section 21 of the Delhi Development Act; it is only by virtue of circulars or rules framed in that regard. Particular reliance has been placed on Ramanand v. Union of India and Ors. AIR 1984 Delhi 29 to say that no one has a vested right to claim an alternative plot and prior to framing of the Delhi Development Act (Disposal of Nazul Land Rules) 1981 the

only claim for allotment of alternative plot was under the circular dated 2.5.61. There was and could have been no entitlement outside of that circular or scheme. It was held in that decision, that after the framing and coming into force of the 1981 Rules, lands could be disposed off only in terms of Rules 4 and 6 which restricted the entitlement towards limited classes of cases.

10. It was also urged that during the pendency of these writ proceedings a 40 sq. yards plot was offered to the Petitioner in respect of the second parcel acquired for the planned development of Delhi towards the acquisition of 5 and a half bids was of land. It was urged that in the light of these facts and also the circumstance that the Petitioner approached this Court in 1993 no relief ought to be granted.

11. The circular dated 2.5.61 in so far as it is relevant for the purposes of deciding this dispute is as follows:

As a general policy disposal of developed land should be made by auction and the premium should be determined by the highest bid except in the following cases, where land may be allotted at or pre-determined rates, namely, the cost of acquisition and development plus the Addl. charge mentioned in subparagraph (7) above.

(i) To individuals whose land has been acquired as a result of chief commissioner's notification dated the 7th March, 1957, the 3rd September, 1957., the 13th November, 1959, and the 10th November, 1960 or other such a subsequent notifications provided that this concession will not be available in the case of individuals affected by the notification dated the 7th March, 1957, and the 3rd September, 1957., if the acquisition proceedings have been completed and payment made or deposited in court by the 1st Jan, 1961. In these cases.

a) If a residential plot is to be allotted the size of such plot, subject to the ceilings prescribed may be determined by the Chief Commissioner-taking into consideration the areas and the value of the land acquired from the individual and the location and value of the plot to be allotted.

12. In exercise of the discretion as per Clause 8(i) (a) various categories were notified, indicating various plot sizes for the purposes of entitlement of the outsiders were framed. The Respondents aver, and submitted that as per the power vested in Clause 8, if the acquired land was less than one bigha the entitlement was only 40 sq. yards which was offered to the Petitioner. It is not disputed that the possession was taken even that counsel submits that the same was done without prejudice to the contentions in these writ proceedings.

13. So far as the question as to entitlement of the Petitioner in respect of the prior acquisition is concerned, I am of the opinion that the judgment of the Full Bench in Ramanand's case (supra) concludes the issue and binds me. It was held inter alia:

According to learned Counsel for the petitioner, a duty is cast upon the DDA, by

Sub-section (2) of Section 21, to so exercise its power of disposal of the acquired land as to give to the persons who are living or carrying on business or other activities on the said land, if they so desire, accommodation therein suitable to their reasonable requirements. Careful reading of Section 21, however, shows that it is not at all applicable to Nazul land, and that it applies only to land which belongs to the DDA, and is referred to as land acquired by the Central Government and transferred to the DDA. This is the particular kind of land that is clearly described, in so many words, in Clause (a) of Sub-section (1) of Section 21. In the next clause, the expression "such land" obviously, eludes to the land mentioned in the earlier clause. The only difference in the two clauses is in respect of disposal of such land, under Clause (a) with out development, and under Clause (b) after development. Sequentially, Sub-section (2) proceeds to regulate the exercise of power of the Authority to dispose of that very land, which is the subject matter of Sub-section (1), i.e., the land which belongs to the DDA. It is, thus, clear that Section 21 does not apply to acquired land which continues to vest in the Central Government and is known and described as Nazul Land. It appears that the impression, reflected in the case of Rajinder Kumar (supra), that allotment of Nazul Land will be made in accordance with the provisions of Section 21 of the Act is not quite correct.

As a result of the above discussion, we find that an individual whose land has been acquired for planned development of Delhi, has no absolute right to allotment, but, he is eligible to be considered for allotment of an alternative plot for residential purposes; and that the DDA may allot Nazul land to such an individual, in conformity with the plans and subject to other provisions of the Nazul Rules.

14. The above discussion would show that the controversy pertaining to the entitlement has to alternative plot in lieu of land acquired in 1945 cannot be the subject matter of the scheme in formulated in 1961. Though an attempt was made by the Petitioner that the land was acquired for public purpose and eventually taken over by the DDA as successor of the trust board, yet, I am of the opinion that such a circumstance itself would not entitle the DDA or the Government of NCT to depart from the eligibility criteria spelt out in the 1961 scheme. Indeed if such an exception were to be made it might possibly offend Article 14 of the Constitution. Others situated as the Petitioner (who were satisfied as to their entitlement) can in such case legitimately seek similar relief on the ground of violation of Article 14. It is well settled that a public authority is strictly bound by the standards set for itself by guidelines in its dealings with the citizens.

15. As far as the entitlement of the Petitioner to a larger plot in lieu of the acquisition of the land is concerned, I am of the opinion that no actionable claim exists since, like others situated similarly, the Petitioner was properly offered a 40 sq. yards plot.

16. In view of the above findings, the writ petition is unmerited and is Therefore,

dismissed. Rule discharged.