

(1984) 10 DEL CK 0004

In the Delhi High Court

Case No : Civil Writ Petns. No's. 1705 of 1982 and 25, 39, 145, 146, 182, 700 and 770 of 1983

Raj Kumar Jain

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-10-1984

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : AIR 1986 Delhi 299

Hon'ble Judges : S.S. Chadha, J

Bench : Single Bench

Advocate : K.K. Bucher, for the Appellant; R.K. Anand and M.L. Jain, for the Respondent

Final Decision : Allowed

Judgement

S.S. Chadha, J.—This order will dispose of C.W. Ps. 1705/82, 25, 39, 145, 146, 182, 700 and 770 of 1983 as there are common questions of facts and law. I will, however, take the facts from the case of Raj Kumar Jain, C.W.P. 182 of 83.

2. A scheme was formulated for the acquisition, development and disposal of land in Delhi. It was notified on May 2, 1961. As a general policy, the disposal of developed land was to be made by auction and premium was to be determined by the highest bid except in the specified cases where land could be allotted at pre-determined rates, namely, the cost of acquisition and development plus additional charge mentioned in sub-para 7 of the scheme to individuals whose land had been acquired as a result of the notifications, inter alia, dt. Mar., 7, 1957, Sept., 3, 1957, Nov., 13, 1959 and Nov., 10, 1960 or such other subsequent notifications. There are other conditions as to the allotment as mentioned in the scheme. The Delhi Administration issued a public notice on 21st, 22nd and 23rd Nov. 1963 inviting applications by Dec., 10, 1963 for allotment of plots from those persons whose land was acquired up to Dec., 15, 1963 for the purpose of planned development of Delhi. In pursuance of the

applications received and the policy, the Delhi Administration has allotted plots of land to various persons whose land had been acquired for the planned development of Delhi.

3. The petitioner did not make an application seeking allotment of the developed residential plot in lieu of his land acquired under the scheme of "Large scale acquisition, development and disposal of the land in Delhi in response to the public notice in Nov., Dec., 1963. The petitioner made the application for allotment for the first time on Sept. 7, 1979. The Land & Building Department of the Delhi Administration acknowledged the application and stated that his application could not be entertained at that late stage unless the petitioner could show cogent reasons for this inordinate delay. The petitioner gave his reasons in the application dt. Oct., 12, 1979 explaining the delay in applying for alternative residential plot and prayed for its condonation. A reminder was also sent by the petitioner.

4. The application of the petitioner for allotment of alternative plot together with the application for condonation of delay in filing the application was considered by the Delhi Administration. A decision was taken and communicated in the letter dt. Feb., 22, 1980 to the Delhi Development Authority and a copy of the same was endorsed to the petitioner. A request was made to the Delhi Development Authority to allot a plot measuring 250 sq yds. to the petitioner in South Zone in the residential scheme as he had been found entitled for the same. The petitioner also made a request to the Delhi Development Authority for early allotment in pursuance of the decision of the Delhi Administration.

5. The Delhi Development Authority called upon the Delhi Administration to confirm recommendation for allotment of an alternative plot in favour of the petitioner. While examining the files, it was revealed that the petitioner had not filed a copy of the Jama bandi for the year 1958-59 duly certified by the Tehsildar prior to the notification u/s 4 of the Land Acquisition Act, 1894. The petitioner was called upon by the Delhi Administration's letter dt. Feb., 3, 1981 to furnish the duly certified copy of the Jama Bandi as also the legal heirship certificate. These documents were furnished by the petitioner along with his letter dt. Feb. 10, 1981.

6. The Delhi Administration by the impugned letter dt. May 28, 1982 held that as the petitioner did not apply within the prescribed time in response to the public notice, his application was time-barred and the recommendation made for 250 sq. yds. plot on Feb., 22, 1980 is withdrawn. It is mentioned in that letter that the Delhi Administration had issued a public notice on 21st, 22nd and 23rd Nov., 1963 inviting applications by Dec., 10, 1963 for allotment of alternative plot from those persons whose land was acquired up to Dec. 15, 1963 for the purpose of planned development of Delhi.

7. I am inclined to quash the impugned order on the short ground that the petitioner was not given any show cause or afforded an opportunity as to why

the recommendations already made by the Delhi Administration on Feb., 22, 1980 were being withdrawn. It is not disputed that the Delhi Administration has been entertaining the applications for allotment of alternative plot in lieu of the acquired land filed even after Dec., 1963. The Delhi Administration has been considering the individual applications along with the applications for condonation of delay on merits this is also what is indicated in the letter dt. Oct. 4, 1979 when the petitioner was called upon to show cogent reasons for the inordinate delay. The petitioner furnished the reasons which were accepted by the Delhi Administration when a decision was taken to make recommendations to allot a plot to the petitioner. It was also found that the petitioner was eligible and entitled to the allotment of alternative plot under the said scheme. A right had accrued to the petitioner when recommendations were made by the Delhi Administration and the petitioner could legitimately expect the allotment of an alternative plot to him. The Delhi (Administration has withdrawn the letter of Feb., 22, 1980 on the sole ground that the application of the petitioner for allotment of alternative plot was time-barred. The principles of natural justice demand that before withdrawing the recommendations made on Feb., 22, 1980, the petitioner should have given a show cause notice or an opportunity of being heard against the proposed withdrawal of the recommendations. I am not inclined to express any opinion at this stage whether the Delhi Administration is entitled to raise the plea of limitation for the purpose of withdrawing the recommendations or not for grant of a plot to the petitioner.

8. For the above reasons, the writ petition succeeds. The impugned order dt. May 28, 1982 is quashed. The Delhi Administration shall issue a show cause notice to the petitioner and take a fresh decision in accordance with law. The reservation made by the Delhi Development Authority in pursuance of the orders of this Court by way of an interim relief would continue to be operative till the decision is taken by the Delhi Administration. On the facts and circumstances of the case, I make no order as to costs.

9. The dates of the applications and allotments as well as the impugned letters in all other cases are different but the question raised is identical. I, therefore, quash the impugned orders in all those cases and direct the Delhi Administration to re-consider the matter after affording an opportunity to the petitioners of showing cause and of being heard. There will be no order as to costs in those cases also.