

(2008) 02 DEL CK 0232
In the Delhi High Court
Case No : Writ Petition (C) 31 of 2008

Vidya Devi and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Citation : (2008) 02 DEL CK 0232

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : R.B. Singh, for the Appellant; Sanjeev Saluja, Digvijay Singh, for AAI, Gaurav Sarin, for DDA and Sanjay Poddar, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J.—The petitioner has impugned Order dated 1st August, 2007 passed by the Nodal Officer rejecting the claim of the petitioner for allotment of alternative plot.

2. The Gaon Sabha land in village Nangal Dewat was allotted to four communities, namely, Makbuja Jullahan, Makbuja Chamaran, Makbuja Kumharan and Makbuja Ahle. The land was not allotted to individuals.

3. The land allotted to the said four communities was acquired for public purpose, namely, expansion of airport. Compensation for acquisition of land stands paid.

4. The acquisition was challenged by some of the land owners/bhumidars in W.P. (C) No. 481/1982 titled Daryao Singh v. Union of India and Ors.. The said Writ Petition was disposed of on 2nd August, 2001 with the petitioners therein giving up their challenge to the acquisition proceedings with the respondents agreeing to allot plots under a scheme to be formulated by them.

5. Persons who were in occupation of community land filed the review application, R.A. No. 9312/2001 claiming that they should be also allotted

individual lands. The said Review Application was disposed of by Order dated 16th December, 2004 holding, inter alia, that the land will be allotted to the said communities who may then allot land to individuals. Request for individual allotments of lands was rejected. A similar Order was also passed on 18th May, 2005 holding that since Gaon Sabha land was allotted to the said communities, the alternative land has also to be allotted to the said communities and not to individuals.

6. Notwithstanding dismissal and disposal of the said Review Application, Harijan and Bakward Jankalyan filed Writ Petition (Civil) No. 17778/2006. Some other writ petitions were also filed thereafter. During the pendency of Writ Petition (Civil) No. 17778/2006, it appears that a meeting was held in the Chamber of the Joint Secretary (Civil Aviation) on 14th March, 2007 to look into the issue of eligibility and alternative plots to persons who are in possession of land recorded/allotted in the name of the said communities. The Committee made recommendations that residents occupying lands recorded in the name of the said communities may be considered for allotment of individual plots. On examination of records it was found that as per the 1958 survey, about 122 persons were recorded as occupants of land which were allotted to the communities. This list of 122 persons was, as per the report of the Committee, to be considered as the outer limit for determining the eligibility for allotment of alternative plots. The Committee recommended fresh survey of the community land to find out whether the said 122 persons or their legal heirs were in actual possession.

7. The Court was apprised of the recommendations of the aforesaid Committee. This fact is recorded in the Order dated 31st May, 2005 passed in Writ Petition (Civil) No. 17778/2006 titled Harijan and Bakward Kalyan Samiti v. Union of India and Ors..

8. Learned Counsel for the petitioners submits that the respondent had agreed to allot alternative plots to 122 persons mentioned in the 1958 survey list and a statement to this effect was made in the Court and has been recorded in the Order dated 31st May, 2007 passed in Writ Petition (Civil) No. 17778/2006 titled Harijan and Bakward Kalyan Samiti v. Union of India and Ors. and other cases. I do not agree. On 31st May, 2007, the respondents had made a statement before the Court that the 1958 survey list would form the foundation and basis for examining the question of eligibility. This list of 122 persons was the outer limit and thereafter the question of eligibility for allotment was to be examined. It was not stated that the said 122 persons, as per the 1958 survey list would be allotted alternative plots. This becomes apparent from the Order dated 27th July, 2006 passed in Writ Petition (Civil) No. 17778/2006 titled Harijan and Bakward Kalyan Samiti v. Union of India and Ors. and other writ petitions. The Court has recorded the statement of the counsel for the respondents that the actual figure in 1958 survey list was 121 and not 122 as name of one person had occurred twice in the list and out of the said list only 63 persons were found to be eligible

and others did not meet the eligibility requirement for allotment. It was also stated before the Court that the persons who were not found to be eligible would be informed of the reasons.

9. Pursuant to the recommendations made in the meeting held on 14th March, 2007, Ministry of Civil Aviation constituted a Committee on the question of determining the eligibility criteria and allotment of alternative plots to persons who were found to be in occupation of community land. Thereafter, a team headed by Tehsildar, Naib Tehsildar, Kanungo, Patwari, representatives of Land & Building Department, representatives of Airport Authority of India and DDA was constituted. The said team visited Village Nangal Dewat from 29th June, 2007 to 4th July, 2007 to verify claim of each person and measure the land found to be in possession of the claimants. The Committee decided that persons mentioned in the list of 121 persons, who were found to be in actual possession shall be allotted alternative land. The 1958 survey list was taken as the basis and another condition was imposed that the said persons or their legal heirs should be in possession of the land in 2007. Thus an additional eligibility criteria of actual possession in 2007 was imposed. It cannot be said that the said condition is contrary to any directions given in the Order dated 31st May, 2007 or is unreasonable. In fact no direction was given in the order dated 31st May, 2007 passed in Writ Petition (Civil) No. 17778/2006 titled Harijan and Bakward Kalyan Samiti v. Union of India and Ors. and other cases. This eligibility condition imposed is also justified and fair as allotment of alternative land is being made in the year 2007 and therefore the survey list of 1958 cannot be the sole basis for allotment. The occupants of community land, in 1958, may have shifted out and moved to another area. Therefore, the conditions imposed for allotment of alternative land are: firstly, the name of the person must be included in the survey list of 1958 and secondly, the persons mentioned in 1958 survey list or their legal heirs should be in actual physical possession in 2007.

10. In view of the above, I do not find any merit in the writ petition and the same is dismissed.