

Maha Singh Vs. Union of India

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Court : Delhi

Decided On : Nov-18-1996

Reported in : 1997RLR179

Judge : Mahender Narain and; M.S.A. Siddiqui, JJ.

Acts : Land Acquisition Act, 1959 - Sections 4

Appeal No. : Civil Writ Appeal Nos. 3 and 267 of 1982

Appellant : Maha Singh

Respondent : Union of India

Advocate for Pet/Ap. : S.S. Panwar and; M.K. Sharma, Advs

Judgement :

Mahender Narain, J.

(1) One Maha Singh was owner of land in village Khirki, near Malviya Nagar (21 bighas and 18 biswas). All this land was acquired by notification u/s 4 of the Land Acquisition Act, dated 13.11.1959. Award with respect thereto was given on 3.10.1962, being Award No. 1395.]

(2) For reasons of its own, the Delhi Govt. declared a policy for allotment of alternative plots to those persons whose land had been acquired. The petitioner

Maha Singh applied for alternative plot of 250 square yards in 1979. Delhi Govt. recommended to Dda that Maha Singh be allotted a plot measuring 250 square yards. Dda confirmed by its communication on 15.6.1982 regarding allotment of 250 square yards of plot.

(3) The Delhi Adm. however, vide letter dated 9.8.1982 asked the petitioner to show cause why the allotment recommended in his favor be not cancelled for the reason that he had applied for an alternative plot 17 years after the scheme for alternative plot has been floated.

(4) The petitioner showed cause and, inter alia, stated that he is an illiterate person and that he did not know about the existence of the scheme, but asserted that other persons who had applied equally late had been allotted alternative plots and that there was no reason why Maha Singh should be discriminated against. It is further case of Maha Singh that without considering his representation made against cancellation of allotment the recommendation was withdrawn.

(5) Before us, the sole contention which has been urged on behalf of the respondents is that the Delhi Adm. does not have any land and that the land has been handed over to the DDA. It is not disputed that the management of the land is with the Dda and that it was a policy decision of the Delhi Adm. that those who had applied late would not be given any alternative plot.

(6) Prima facie, it appears to us that the withdrawal 181 of recommendation by the Delhi Adm. is arbitrary and no sufficient reasons exist for that recommendation to be withdrawn, especially in view of the fact that other persons similarly situate as Maha Singh have been allotted alternative plots despite the fact that there was delay in their applications for allotment of alternative plots.

(7) Besides this, there is another fact to be considered. The scheme is for allotment of alternative plots. It is not that a very large proportion of land which has been acquired is going to be given by way of alternative allotment. In the instant case, 21 bighas and 18 bids was of land was acquired, that is to say, over 21,000 square yards belonging to the petitioner and the alternative allotment which is to be made is only 250 square yards. That much land is not significant part of the

totality of the land of petitioner which has been acquired.

(8) What is to be given is a small fraction of the 2/3rd of the land which would have remained, even after 1/3rd of the land was accounted for by way of use of land for public purposes like roads and parks etc.

(9) The Dda is managing all the lands which are entrusted to it after acquisition. We take notice of the fact that entirety of the land which has been entrusted to the Dda for development, has not been developed in its entirety. Vast tracts of land in Delhi is still undeveloped.

(10) It is not necessary that part of the very same land which has been acquired should be given by way of alternative allotment, and since the land is always going to be available with small part of it can be made subject to alternative plot scheme which has been floated by the Delhi Adm. ostensibly in public interest.

(11) Our attention has also been brought to the judgment of the Supreme Court in C.A. 4157/85 where it expresses substantial agreement with the reasoning and conclusion of D.B of this Court in C.W. 59.1 and 612 of 1982, decided on 22.4.1988.

(12) In this view of the matter, the W.P. succeeds. The petitioner is entitled to plot measuring 250 square yards in South Zone Residential Scheme of the DDA.

(13) If the plot is not available in any of the South Zone residential Schemes, then allotment be made available from any other residential scheme.

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