

Shri Mange Ram Vs Dda and ors.

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Court : Delhi

Decided On : Jul-13-2010

Judge : Mr. S.N. Aggarwal, J.

Acts : [Constitution of India](#) - Article 226,

Appeal No. : W.P.(C.) No. 2819/2006

Appellant : Shri Mange Ram

Respondent : Dda and ors.

Advocate for Def. : Ms. Shobhana Takiar, ; Mr. Sanjay Podda, Advs.

Advocate for Pet/Ap. : Mr. Som Dutt Sharma, Adv.

Judgement :

1. Whether reporters of Local paper may be allowed to see the judgment? YES
2. To be referred to the reporter or not? YES
3. Whether the judgment should be reported in the Digest? YES

ORDER

1.The petitioner Shri Mange Ram has filed this writ petition under Article 226 of the [Constitution of India](#) with the following prayers:- "

a) issue writ, order or direction in the nature of mandamus whereby the respondents No. 1 & 2 may be directed to allot/recommend an alternative plot in favour of the petitioner in lieu of his acquired land under the scheme of large scale acquisition, development of land acquired by respondent No.1 in the year 1958-59 under Award No. 1938-39;

b) Issue writ, order or direction in the nature of mandamus with direction to the CBI and/or other appropriate agencies to investigate and inquire into the matter whereby respondents either recommended/allotted the plot in favour of third persons, if it is so deem fit and proper under the facts and circumstances of the matter;

c) Give cost incidental to this writ petition in favour of the petitioner."

2. Briefly stated the facts of the case relevant for the disposal of this writ petition are that the land of the father of the petitioner was acquired by the Government in the year 1958 vide award No. 1938-39. At that time, there was a scheme for allotment of an alternative plot in lieu of compulsory acquisition of land of private persons by the Government.

3. The father of the petitioner consequent upon compulsory acquisition of his land had applied for allotment of an alternative plot and a recommendation for allotment of an alternative residential plot of 300 sq. yds. at East of Kailash, was made by the concerned department of the Government in the year 1967. The father of the petitioner died on 13.07.1986.

4. After the death of his father, the petitioner has filed this writ petition after 20 years of his death for directions to the DDA to allot him an alternative plot in lieu of acquisition of his land in the year 1958-59 under Award No. 1938-39.

5. Mr. Som Dutt Sharma, learned counsel appearing on behalf of the petitioner, has argued that the late father of the petitioner did not receive any recommendation letter from the Government recommending allotment of an alternative plot to him in lieu of compulsory acquisition of his land. He, therefore, requests that necessary directions may be given by the court to the respondents

for allotment of an alternative plot to the petitioner in lieu of compulsory acquisition of land of his father.

6. This writ petition is strongly opposed by Mr. Sanjay Poddar and also by Ms. Shobhana Takiar, appearing on behalf of the respondents, inter alia on the ground that this writ petition is barred by delay and laches and also on the ground that recommendation for allotment of an alternative plot was made by the Government in favour of the father of the petitioner way back in 1967 and, according to them, the late father of the petitioner did not raise any dispute with regard to allotment of an alternative plot during his life time though he remained alive for about thirty years since the date of acquisition of his land. It is submitted that the petitioner is now estopped by his conduct from raising a dispute after twenty years of the death of his father for allotment of an alternative plot in lieu of land acquired by the Government way back in 1958. The record shows that the petitioner even as per his own showing was fully aware of the compulsory acquisition of land of his father and his having acquired the knowledge in 1988 about the recommendation for allotment of an alternative plot made by the Government in favour of his father but despite that he choose not to take any step for allotment of an alternative plot for about twenty years till the filing of the present writ petition filed in the year 2006. The court cannot ignore the fact that the allotment letters in respect of alternative plots are sold for consideration by the allottee of such plots and it appears to the court that the present petition has been filed by the petitioner as a gross misuse of the legal machinery by taking undue advantage of the death of his father. Had there been any substance in the case of the petitioner, he either himself or through his father could have taken legal action for allotment of an alternative plot in respect of land of his father acquired by the Government way back in 1958.

7. In the facts & circumstances of the case, I do not find any merit in this writ petition which fails and is hereby dismissed with Costs quantified at Rupees One Lakh, 75% of which should be deposited with the Delhi Legal Services Authority and the balance should go to the respondents in equal share. This Costs has been imposed by the court keeping in mind the conduct of the petitioner in filing of frivolous litigation after about fifty years of acquisition of land of his father taking advantage of his death.

