

**Darshna Devi Vs. D.D.A. and ors.**

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**Court :** Delhi

**Decided On :** Aug-24-2011

**Judge :** Rajiv Sahai Endlaw, J.

**Appeal No. :** W.P.(C) 6093/2011 & CM No.12317/2011

**Appellant :** Darshna Devi

**Respondent :** D.D.A. and ors.

**Advocate for Def. :** Ms. Sangeeta Chandra, Adv.

**Advocate for Pet/Ap. :** Mr. Rajesh Yadav; Mr. Sumit Khosla, Advs.

**Judgement :**

1. The petition impugns the order dated 30th June, 2011 of the respondent DDA made in pursuance to the direction contained in the order dated 13th July, 2010 of this Court in W.P.(C) No.9577/2009 earlier preferred by the petitioner.

2. The petitioner claims to be a resident of Village Nangal Dewat, land wherein was acquired for the purposes of development of Airport. During the pendency of the writ petition being W.P.(C) No.481/1982 challenging the said acquisition, a proposal was mooted for rehabilitation of the persons displaced owing to acquisition and the challenge to the acquisition was given up. Subsequently, several applications came to be filed in the said disposed of W.P.(C) No.481/1982 and which applications were disposed of vide order dated 18th May, 2005 issuing

certain directions qua allotment of alternative land.

3. The petitioner claims to be the legal heir of one Sh. Sheonath whose name was entered as holder of land in the said village. The petitioner is the widow of one of the two sons of the said Sh. Sheonath. Allotment of alternative land in lieu of the acquired land of Sh. Sheonath is stated to have been made in the name of the other son of Sh. Sheonath and in the name of the son and daughter in law of the petitioner. The petitioner claims that as a legal heir of Sh. Sheonath, she is also entitled to have her name included in the alternative plot which has been so allotted.

4. The earlier petition preferred by the petitioner being W.P.(C) No.9577/2009 (supra) for the same relief was withdrawn by the petitioner with liberty to approach the DDA and DDA was directed to pass a speaking order.

5. DDA has in the speaking order dated 30th June, 2011 (supra) stated that it has made the allotment in accordance with the list of names forwarded to it and was not concerned with the preparation of the said list.

6. The counsel for the respondent no.2 Airports Authority of India (AAI) appearing on advance notice has invited attention to order dated 30 th January, 2009 in W.P.(C) No.569/2009 titled Ishwar Singh v. Union of India holding that the dispute relating "to entitlement of one or another parties based on their being excluded, where the extent of land is not in dispute, cannot be gone into writ proceedings" and the aggrieved party has to agitate their rights in civil proceedings in accordance with law. It was further held that this Court in the restricted nature of writ jurisdiction cannot adjudicate assertion of accountability of other owners to a share claimed and the same constituted a private dispute. The writ petition was thus dismissed with liberty to approach the Civil Court. He thus contends that the present petition is not the appropriate remedy for the relief claimed. It is further stated that it was informed during the hearing of the earlier writ petition that the son and daughter in law of the petitioner in whose favour conveyance deed was executed admittedly in the year 2009 have already disposed of the land. It is thus stated that the purchasers from the son and daughter in law of the petitioner will also have to be heard.

7. The counsel for the petitioner has urged that the aforesaid dicta would not apply to the facts of the present case. He has invited attention to the letter dated 21st October, 2010 written by the DDA (before making the order impugned in this petition) to the Nodal Officer appointed during the hearing of the applications aforesaid in W.P.(C) No.481/1982 and the reply dated 14th December, 2010 of the said Nodal Officer to the effect that the name of the son of the petitioner or other son of Sh. Sheonath did not appear in the list prepared by him. The counsel thus contends that DDA which was to make the allotment in accordance with the list to be forwarded by the Nodal Officer had admittedly not made the allotments in accordance with the said list and the allotment in the name of other son of Sh. Sheonath and in the name of son and daughter in law of the petitioner is illegal.

8. The aforesaid does not persuade this Court to take a view different from the view in Ishwar Singh (supra). The claim of the petitioner essentially is a private claim for a share in a plot of land which has been allotted in lieu of the acquired land in which the petitioner claims entitlement/share. There is no dispute as to the extent of the land. Moreover, the petitioner has in the petition expressly stated that she is not challenging the allotment of the alternative plot to the extent of 50% share in the name of other son of Sh. Shiv Nath.

9. Even otherwise, propriety demands that this Bench should follow the dicta of the coordinate Bench, more so when there is no reason to differ therefrom.

10. The writ petition is therefore not maintainable and is dismissed with liberty to the petitioner to avail the alternative remedy in law. No order as to costs.

CM No.12318/2011 (for exemption)

Allowed, subject to just exceptions.

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