

BY SPEED POST

IN THE COURT OF ADDL. DISTRICT MAJISTRATE/ LAC(ND)/ NODAL OFFICER,  
DISTT. NEW DELHI 12/1, JAM NAGAR HOUSE, NEW DELHI-11

No. LAC/ND/2012/Order/10294

Dated: 26.11.2012

I am directed to forward herewith an order passed by ADM/LAC(ND) in the matter of Sh. Jai Kumar & Ors V/s. Airport Authority of India in compliance of order dated 06.11.12 passed by the Hon'ble High Court of Delhi in WP (C ) No. 199/2012 for your information and taking necessary action at your end.

(Reader to LAC(ND))

To

1. Sh. Jai Dev s/o Late Sh. Tara Chand @ Tare, r/o VPO Saresa Distt Sonapat(Haryana)
2. Sh. Jai Kumar s/o Late Sh. Tara Chand @ Tare, r/o VPO Saresa Distt Sonapat(Haryana)
3. Ms. Sumitra , Daughter of Late Sh. Tara Chand @ Tare, r/o H No.141, Village Mujesar, Tehsil Ballabharg, Distt. Faridabad(Haryana)
4. Airport Authority of India, Through its Chairman, Rajiv Gandhi Bhavan, New Delhi-3
5. Delhi Development Authority (through its Vice Chairman), Vikas Sadan, INA, New Delhi-23
6. ADM(SW), Office of LAC (South West), New Delhi
7. Sh. Baljeet Singh, Advocate Delhi High Court (Advocate for petitioners) Office cum Residence D/5, Nangal Dewat, Vasant Kunj, New Delhi-110 070
8. Sh. Sanjay Kumar Pathak, Advocate, B-1, Lawyers Chambers, 30, DDU Marg, Rouse Avenue, New Delhi-2
9. ✓ DIO, NIC/ Asstt. Programmer, Office of DC(ND) to publish on Departmental website

for N.A please,

call by  
03/12/12.

Asstt. Programmer

8182/DC/ND  
3/12/12

IN THE COURT OF ADDL. DISTRICT  
MAGISTRATE/LAC(ND)/NODAL OFFICER, DISTT. NEW DELHI  
12/1, JAM NAGAR HOUSE, NEW DELHI-110011

In the matter of :-

1. Sh. Jai Kumar S/o Sh. Tara Chand.
2. Sh. Jai Dey S/o Sh. Tara Chand.
3. Smt. Sumitra W/o Sh. Sant Ram D/o Sh. Tara Chand

Versus

Airport Authority of India & Ors.

ORDER  
26.11.2012

1. This order is made in compliance of the Order dated 06.11.2012 passed by the Hon'ble High Court of Delhi in WP (C) No. 199/2012 titled Jai Kumar & Ors. Vs. Airport Authority of India & Ors., whereby Hon'ble High Court has issued direction to decide the representation dated 30.09.2011 of the petitioners/applicants on merits by conferring the power of Nodal Officer to the undersigned. Hence, this order shall dispose of the application/ representation dated 30.09.2011 filed by the applicants.

- (Rajeeva Shukla)  
Additional District Magistrate  
District New Delhi  
12/1, Jam Nagar House, New Delhi
2. Pursuant to aforesaid order dated 06.11.2012 passed in WP(C) No. 199/2012 by the Hon'ble High Court, the Nodal Officer vide letter dated 12.11.2012 has requested the Chairman, Airport Authority of India to depute some officer well conversant with the facts of the case alongwith all relevant records which is material to determine the eligibility of the applicants. In response thereto, the General Manager (Lands), Airport Authority of India vide letter dated

20.11.2012 has furnished AAI's response along with relevant documents. The petitioners/applicants along with their counsel have already been heard on 28.09.2012 and on 05.10.2012.

3. The issue of rehabilitation of villagers was taken up in various meetings by LG's office and in various pronouncements of Hon'ble High Court of Delhi. The lead case on the issue was WP(C) No. 481/1982 titled Daryao Singh & Ors. Vs. UOI & Ors. wherein the Hon'ble High Court vide order dated 18.05.2005 framed detailed guidelines regarding rehabilitation/ eligibility.

4. After thorough perusal of the records available with this office and as provided by the Airport Authority of India, the petition/representation dated 30.09.2011 was examined and following chronology of events is marked:

- i) The residential land of village Nangal Dewat was notified in the year 1972 for expansion of Palam Airport, New Delhi.
- ii) The notified land of erstwhile Village Nangal Dewat fell into two categories i.e Old Abadi Land and Extended Abadi Land. Since, no revenue records were available in respect of old abadi, hence, a survey was made by revenue authorities in the year 1972 itself and consequently Award No. 16/1986-87 was announced on 14.08.1986.
- iii) In the year 1982 certain persons of Village Nangal Dewat preferred the writ petition being WP(C) No. 481/1982 titled as Daryao Singh & Ors. V. Union of India & Ors. challenging therein the said acquisition. The Hon'ble High Court in its order had directed to consider the claims of the residents for

  
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allotment of alternative plot under a scheme to be formulated within 06 months. Subsequently, AAI prepared a scheme for allotment of alternative plots and prepared 12 categories of size of plots to be allotted to the persons against their land so acquired.

- iv) The issue regarding the eligibility criteria, however, remained unaddressed and subsequently, on the request made by the residents and authorities, the Hon'ble High Court vide order dated 28.04.2004 had appointed Sh. S.S. Kanawat, ADM/LAC(SW) as the Nodal Officer to draw a list of eligible persons and their respective land.

On the direction of the Hon'ble High Court, the Nodal Officer prepared an index on 13.01.2004 showing names of persons and land under their possession on the basis of survey conducted in the year 1972. The said index contained entries from Sl. No. 1 to 316 in respect of old abadi land and Sl. No. 317 to 516 in respect of extended abadi land. For the land falling in old abadi the possession itself had been considered as proof of ownership as no revenue records were available and for extended abadi land the entries in revenue records were considered as proof of ownership of land.


  
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- v) In the aforesaid index, the land of Raghunath s/o Shera and Arjan s/o Shera has been recorded in the old abadi as under:-

Name of person	Khasra No.	Share of land in yards	Index no.	Land of the person in yards
Raghunath S/o Shera	½ of 380	1243	113A	190
Arjan s/o Shera	½ of 146	1243	245A	73

		½ of 105	1243	274A	52.50
Arjan	S/o	½ of 380	1243	113B	190
Shera		½ of 146	1243	245B	73
		½ of 105	1243	274B	52.50

- vi) However, the then nodal officer vide order dated 08.12.2004 had made a correction in the share of Shri Raghunath S/o Shri Shera in respect of Index No. 113A and 113B and by this order Shri Raghunath S/o Shri Shera became the sole owner of land measuring 380 sq. yds as the same has come to the share of Sh. Raghunath S/o Shri Shera on the basis of a gift deed duly registered with the Sub-Registrar, Delhi on 24.06.1950 and accordingly, the records had been corrected.
- vii) The then Nodal Officer vide letter dated 25.01.2005 addressed to the General Manager(Lands), Airport Authority of India had merged the share of Sh. Arjan S/o Sh. Shera in favor of Shri Raghunath S/o Sh. Shera as Sh. Arjan S/o Sh. Shera died intestate(issueless).
- viii) The order dated 08.12.2004 of the Nodal Officer and order dated 25.01.2005 were never challenged by the applicants and in fact for the first time writ petition was filed only in the year 2011 being WP(C) No. 7174/2011 titled Jai Kumar & Ors. Vs. Airport Authority of India & Ors.. However, the said writ petition was dismissed as withdrawn vide Hon'ble High Court's order dated 27.09.2011 with liberty to approach the respondent(which had not been done prior to filing the said writ petition) and with further liberty, if they remain aggrieved, to take a proper remedy.

  
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12/1, Jam N...

ix) Accordingly, as per the liberty so granted the applicants, who claims themselves to be the successors of Sh. Arjan Singh, vide their application/representation dated 30.09.2011 have made a request to the authorities to consider their entitlement for allotment of alternative plot.

5. Upon careful perusal of the application/representation dated 30.09.2011, following points have been observed:-

a) No claim so far has been made by the applicants before any competent authority prior to their application dated 30.09.2011.

b) The applicants were not able to prove that the land against which they are claiming alternative plot were under their possession or that they are the LR's of land holder.

c) The applicants claim themselves to be the LR's of Late Sh. Arjan S/o Sh. Shera. However, in support of their assertion, three self-serving affidavits have been filed claiming that their mother was the only daughter of Sh. Arjan s/o Sh. Shera @ Sher Singh. Further, they have filed copies of the driving licence and one photocopy of certificate to the effect that the applicants are natives of Village Sersa and that they are legal heirs of Smt. Chandrawati @ Chandro who was resident of Village Nangal Dewat, Delhi and was daughter of Sh. Arjan s/o Sh. Shera @ Sher Singh. The said

  
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certificate, though mentions about so many facts but is interestingly silent on the aspect as to other legal heirs of Smt. Chandrawati. However, no documentary evidence issued by any competent authority/competent Court has been provided by the Applicants. I may note here that while providing hearing to them on 28.09.2012, when the applicants were present in person alongwith their counsel, they were directed to submit surviving member certificate (SMC) from a competent authority. Next date of hearing was fixed for



05.10.2012. No such certificate or any order from any competent court has been provided by the applicant or by their counsel despite direction, either on 05.10.2012 or till the date of passing of this order.

d) As has been claimed by the applicants in para 8 of their representation, two of the LRs of Late Chandrawati @ Chandro D/o Late Sh. Arjan Singh have already expired. Though name of one of the deceased legal heir is stated as Sh. Jai Prakash and the other name is Sh. Jai Singh who are stated to have died in 1999 and 2007 without any legal heir, however no particulars about their survivors have been given in the application/representation.

e) The applicants have claimed that they were minors at the time of the death of their maternal grand-father, namely, Sh. Arjan S/o Sh. Shera. However, as per the Identity and age proof submitted by the applicants alongwith the application dated 30.09.2011, the age of the applicants, namely, Sh. Jai Kumar, Sh. Jai Dev and Smt Sumitra was 26, 18 and 37 yrs. respectively at the time of death of their mother i.e. Smt Chandrawati @ Chandro in the year 2000. Upon perusal of their application under consideration, it is noted that all of them had attained majority at the time of the death of their mother- Smt. Chandrawati in the year 2000 and two of them had attained majority at the time when their father Sh. Tara Chand expired in the year 1995. As regards Sh. Jai Singh, who is stated to be taking care of the applicants, it has not been clearly brought out as to what was his age. However, as per the own case of the applicants he was taking care of the applicants and thus, he was also presumed to be a major at the relevant time. One of the applicant was major even at the time of death of their grand father in the year

  
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1990. Their mother has also not come forward during her life time to assert her right as legal heir of Sh. Arjan s/o Sh. Shera.

f) The applicants or their mother had chosen not to approach any authority or forum apparently because they were not displaced from the site in question at Village Nangal Dewat and were residing at Village Saresa, Distt Sonapat.

g) The predecessor nodal officer vide order dated 25.01.2005 had given benefit of the share of Late Sh. Arjan Singh S/o Sh. Shera to Sh. Raghunath Singh S/o Sh. Shera by merging the land holding of Sh. Arjan Singh S/o Sh. Shera in favour of Sh. Raghunath S/o Sh. Shera.

f) In view of the above situation emerging, the benefit once given to Sh. Raghunath by the predecessor of the undersigned in my view cannot be withdrawn at this late stage particularly in view of the fact that either the order dated 08.12.2004 or the communication/order dated 25.01.2005 has never been challenged by the applicants till the filing of the application/representation dated 30.09.2011 and the same has attained finality. Thus, applicants have their remedies, if any, only against Sh. Raghunath or his legal heirs who ought to have pointed out at the relevant stage that Sh. Arjan had not died issueless and in fact had a daughter. The plea of applicants that they were totally dependent upon sons of Late Sh. Raghunath is not acceptable in the facts of this case.

6. The records clearly indicate that the complete share of Sh. Arjan Singh was merged into the share of Sh. Raghunath by the then Nodal Officer Sh. S.S.Kanawat, ADM/LAC vide communication/orders 08.12.2004 and 25.01.2005. Sh. Arjan's share having been merged into the entitlement of Shri Raghunath, nothing is left at this stage, the benefit

  
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of which can be given to the LR's of Sh. Arjan Singh, that too by way of a belated claim.

7. As per the rehabilitation policy framed and as per the direction of the Hon'ble High Court, alternative plots had to be given to those entitled persons whose names figure in the survey of 1972. The intent and purport of the order dated 18.05.2005 was that requests or applications may be filed before the nodal officer within 15 days from the date of the order stating clearly their entitlement in terms of guidelines/criteria. Hon'ble High Court vide order dated 18.05.2005 in WP(C) No.481/1982 in para 11 had observed as under:

*"In view of the guidelines and the criteria as settled for alternate allotment, the objectors/applicants if they fall within the said guidelines or criteria may approach the nodal officer for inclusion of their names as an eligible alternate allottee or for determination of the size of their plots based on the above criteria. The said letters, requests or applications may be filed before the nodal officer within 15 days from today stating clearly their entitlement in terms of guidelines/criteria. In case the nodal officer rejects any application for mutation or application for allotment, it would be for the concerned party to seek substantive relief in the appropriate proceedings and not by any CMs in this disposed of writ petition."*

  
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8. In several cases where original entitled person died their LR's made claims within stipulated time as per the direction made by Hon'ble Court in WP(C) No. 481/1982. The main intention of the Hon'ble High Court was not to permit delayed claims and also to restrict such claims. Accordingly, the time limit of 15 days was fixed to make claims for alternative allotment. Thus, the Hon'ble Court

granted benefit only to those who were vigilant to their rights and not to those who slept over their rights. It is pertinent to mention that the LRs of Late Sh. Arjan S/o Sh. Shera were all majors at the time of the allotment of plots by Nodal Officers. However, they did not file any claim and rather preferred to be ignorant on the spacious plea that their brother Sh. Jai Singh was taking care of all their properties and was totally dependant upon the sons of Late Sh. Raghunath. It is further claimed by the applicants in para 9 that Sh. Jai Singh had handed over vacant possession of the village properties to AAI through LAC in July, 2007. However, none of the assertions made in para 9 have been substantiated by either independent or corroborative evidence, documentary or otherwise. I do not find any merit in the assertions and the same are hereby rejected.


9. As per the own case set up by the applicants in their application dated 30.09.2011, the vacant possession was handed over to the authorities in July 2007. By that time scheme for alternative allotment has been framed. If the said assertion is accepted on the face of it, the applicants cannot claimed to be ignorant of the entire proceeding of allotment of alternative plots. Shri Jai Singh, who is stated to have died in 2007, ought to have been vigilant and it seems highly improbable that he might not have come to know about the rehabilitation scheme or about the order dated 08.12.2004 or the communication order dated 25.01.2005 by which share of Sh. Arjan S/o Sh. Shera was merged in favour of Sh. Raghunath S/o Sh. Shera on the premise that Sh. Arjan died issueless. Shri Jai Singh did not take any action either to challenge the said orders/communication or to make the claim as legal heirs of Sh. Arjan. However, the applicants have not been able to show valid or cogent reasons to

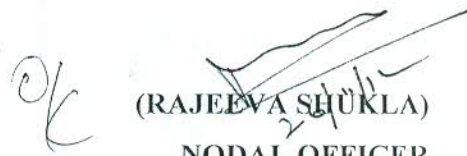
  
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justify the inordinate delay in filing their representation/application claiming allotment of alternative plot.

10. In view of the above reasons, I am not inclined to allow the application/representation of the applicants and the same deserves to be rejected on the grounds of inordinate delay as well as on merits. The applicants have failed to substantiate their claim by way of cogent evidence. The applicants cannot claim to be ignorant of the allotment proceeding despite the fact that the applicants claim that their brother who was taking care of all the properties was present at the time of handing over of vacant possession to the authorities in village Nangal Dewat in July 2007. Therefore, I hereby reject the representation/application dated 30.09.2012 of the applicants.

The copy of the order be served to the applicants as well as to their counsel.

  
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Additional District Magistrate  
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NODAL OFFICER  
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