



OFFICE OF

THE DEPUTY COMMISSIONER (SOUTH WEST)
OLD TERMINAL TAX BUILDING, KAPASHERA, NEW DELHI-110037

Ref. No. DC/SW/2018/51371

Dated: 11/09/18

Case Id:-

Case No.-

M/s. Nu.Stores Pvt Ltd..

Applicant

Vs.

Deputy Commissioner (South West)

Respondent


ORDER

1. An application dated 20.10.2017 has been filed by M/s. Nu Stores Pvt Ltd. through it's director, Sh. Jagdish Yadav for exchange of land under section 40 of Delhi Land Reforms Act 1954. As per the application, the company is the owner of land bearing Kh. No.44//10, 9/2, 11 having a total area of 7 bigha 4 biswa located in the revenue estate of Kapashera village. The applicant wants to exchange its land with the DC land / Sarkar Daulatmadar land bearing Kh.No. 30//19/2, 20 having a total area of 5 bigha 6 biswa located in the revenue estate of Kapashera village.
2. After receiving the application, a report / comments on the application were obtained from the Tehsildar (Kapashera) and the SDM (Kapashera) which are available in the case file. As per the report of Tehsildar (Kapashera) and the SDM (Kapashera), the land of the applicant bearing Kh. No. No.44//10, 9/2, 11 comes to 6 Bigha 6 Biswa in standard acres while the size of the DC land remains the same at 5 Bigha 6 Biswa.
3. The Exchange of land is covered U/s 40 of the Delhi Land Reforms Act, 1954 which is reproduced below:

40. Exchange. -

(1) Subject to the provisions of section 33, a Bhumidhar may exchange lands held by him as such -

M/s Nu Stores Pvt. Ltd. Vs Deputy Commissioner (South West)


11/9/18

(a) For lands held by any other Bhumidhar as such, or

(b) For lands for the time being vested in a Gaon Sabha or local authority or in Government.

Provided that no such exchange shall be made except with permission of the Deputy Commissioner, who will refuse permission if the difference between the area of the land given in exchange and of land received in exchange in terms of standard acres is more than ten per cent of the area in standard acres of the land which is smaller in area.

(2) Where the Deputy Commissioner permits exchange, he shall also order the relevant annual register to be corrected accordingly.

(3) On exchange made in accordance with the sub section (1), the parties to such exchange shall have the same rights in the land received in exchange as they had in the land given in exchange.

As per the present application, the Bhumidar M/s Nu Stores Pvt. Ltd. desires to exchange its land bearing Kh. 44/10, 9/2,11 in the revenue estate of Kapashera Village which in terms of standard acres has a total area of 6 bigha 6 biswa with the DC land / Sarkar Daulatmadar land bearing Kh. No. 30//19/2, 20 having a total area of 5 bigha 6 biswa (in standard acres) located in the revenue estate of Village Kapashera. It may be observed that the difference between the area of the two land parcels in terms of standard acres comes to one Bigha which is approximately 18.86% of the area of land of the smaller land.

4. In this case it will be useful to once again highlight the proviso to Section 40 (1) of the Act which is reproduced for brevity.

"Provided that no such exchange shall be made except with permission of the Deputy Commissioner, who will refuse permission if the difference between the area of the land given in exchange and of land received in exchange in terms of standard acres is more than ten per cent of the area in standard acres of the land which is smaller in area."


From the facts of the case, it is clear that the difference between the area of land given in exchange (land of Nu stores Pvt. Ltd. having total area of 6 Bigha 6 Biswa in standard acres) and the land received in exchange (DC land having a total area of 5 Bigha 6 Biswa in standard acres) comes to

M/s Nu Stores Pvt. Ltd. Vs Deputy Commissioner (South West)


11/9/18

approximately 18.86 % which is much more than the maximum limit of 10% stipulated in the Act. Thus the application is hit by the proviso to Section 40 (1) of the Act.

5. In view of the above facts, the present application for exchange of land is rejected on account of non-maintainability, being barred by the proviso to sub section 1 of section 40 of The Delhi Land Reforms Act 1954.
6. Given under my hand and seal on this 11th day of September 2018.
7. The file may be consigned to the record room.



11/9/18
ABHISHEK DEV, IAS
Deputy Commissioner
District - South West

Ref. No.

Dated:

Copy to:-

- 1 M/s.Nu.Stores Pvt Ltd. At: N-1, BMC House ,Middle Circle ,Connaught Place, New Delhi-110001.
- 2 SDM Kapashera
- 3 ✓ Asstt. Programmer, NIC, for updation.
- 4 Guard File.


11/9/18
ABHISHEK DEV, IAS
Deputy Commissioner
District - South West