

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

Writ Petition No. 2656/2015

Muhammad Dildar etc
Versus
C.D.A. etc.

Petitioners by: Raja Shafqat Khan Abbasi, Advocate.
Respondents by: Mr. Ghulam Shabbir Akbar, Advocate.
Date of Hearing: 10.03.2020.

FIAZ AHMAD ANJUM JANDRAN, J:- Through the instant writ petition, petitioners (Legal heirs of one Ali Muhammad who died in the year of 1964) sought direction against the respondents-CDA for allotment of residential plots in lieu of their acquired land.

2. Facts, relevant for the disposal of instant writ petition are that land measuring 28 Kanal 3 Marla owned by Ali Muhammad (predecessor-in-interest of the petitioners) situated in mouza Ojri Kalan, presently Sector I-8, was acquired by the respondents-CDA through Award dated 07.06.1963. The compensation regarding acquisition of said land was paid to the petitioners. Thereafter a scheme with the title "Rehabilitation of Effectees of the Islamabad" was introduced by the respondents, firstly in the year 1984 and then in 1996. The petitioners being eligible for residential plots in the developed sectors, as per policy, submitted their representations/ applications on 11.12.1982 & 12.12.1982, available at page 37 of the file. The respondents processed the applications submitted by the petitioners as per law and finally the Allotment Scrutiny Committee, constituted by the respondents, submitted proposal alongwith a certificate that land owned by the predecessor in interest of the petitioners measuring 28 Kanal 3 Marla was acquired by the respondents and till that day no rehabilitation benefits had been extended to the

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petitioners. The report of the respondents is available in case file. Thereafter in the year 2015 the respondents offered a prescribed form which, too, was filled and submitted by the petitioners. On somehow or the other, the case of the petitioners remained pending with the respondents but they could not get the benefit which constrained them to file the instant writ petition in the year 2015. The report/para-wise comments were submitted by the respondents alleging certain defects in the present petition.

3. Learned counsel for the petitioners contends that petitioners have been meted with discrimination; that all inhabitants/effectees of mouza Ojri Kalan, presently Sector I-8, had been given residential plots as per their entitlement; that petitioners are entitled to seven plots measuring 30x60 sq.ft each in lieu of their acquired land as per policy of 1984; that similarly placed individual namely Shamir Ahmad son of Saeed Khan had been allotted plots No.1248 to 1251 and the benefit was extended to many others; that petitioners have legal entitlement/right to be allotted residential plots as per policy but the respondents are acting illegally by not performing their duty which, under the law, they are required to perform. Learned counsel placed reliance upon case laws reported as Miskeen Sultan vs CDA through Chairman (2012 YLR 2889), Syed Ali Shah vs Government of Pakistan through Ministry of Defence and 2 others (1994 CLC 369), Federation of Pakistan through Secretary Ministry of Housing and Works Islamabad vs Mst. Ismat Qayyum Malik (PLD 1994 Lahore 360), Professor Rtd. Masood ul Hassan vs Muhammad Iqbal (PLD 1998 Lahore 177), The Karachi Development Authority Karachi vs Works Cooperative Housing Society, Karachi and another (1978 SCMR 307), Sutlej Cotton Mills Limited Okara vs Industrial Court West Pakistan Lahore and others (PLD 1966 SC 472) and Mian Rafi ud Din and 6 others vs The Chief Settlement and Rehabilitation Commissioner and 2 others (PLD 1971 SC 252).

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4. Learned counsel for respondents-CDA submits that as per report submitted by the respondents there are certain deficiencies in the claim of the petitioners qua the family unit; learned counsel reiterated the averments submitted through the report, however lastly submits that as per paragraph No.14 of the report available at page 3 of the written comments, petitioners are entitled to only one plot.

5. Heard the learned counsel for the parties and examined the record with their able assistance.

6. The record available on file shows that admittedly land of the petitioners was acquired by the respondents and procedural formalities in this respect were also conducted by the respondents. The Scrutiny Committee of the respondents submitted report to the respondent No.1 wherein acquisition of land of the predecessor in interest of the petitioners was admitted and not a single plot under the scheme of rehabilitation of the effectees of Islamabad has been offered to the petitioners. The record is also evident that petitioners are wondering/pursuing their cause/request from pillar to post since 1999 but even no justifiable response/reply has been given by the respondents.

7. Needless to mention that all public functionaries including the respondents are required to act strictly in accordance with law and not otherwise. If the respondents had made a policy with the title "Rehabilitation Policy for Effectees of Islamabad" then when record of the respondents themselves speaks genuineness of claim submitted by the petitioners, by not offering them benefit as per their entitlement amounts to refrain from doing an act which the law requires them to do. If there is any controversy that whether number of plots, as per said policy, are one or more, as per claim of the petitioners, but none had been offered to the petitioners. Even no plausible

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reason has been extended by the respondents regarding allegation of discrimination, put forth by the petitioners.

8. Keeping in view the report submitted by the respondents, minutes of the Scrutiny Committee, the case law submitted by the learned counsel for the petitioners and its application to the facts of case in hand and other documents regarding claim of the petitioners, respondents are directed to act strictly in accordance with law and issue allotment letter in favour of the petitioners as per their entitlement. The matter is pending with the respondents since 1999, therefore, three months' time is granted for compliance of the above direction.

9. The instant writ petition is disposed of in above terms.

**(FIAZ AHMAD ANJUM JANDRAN)
JUDGE**

Suhail

Announced in open Court on 14-04-2020

JUDGE