

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S. B. Civil Writ Petition No. 12071/2016

URN: CW / 22150U / 2016

1. Smt. Sushila Devi W/o. Late Shri Kashi Narayan Ji Sharma, aged about 64 years, Resident of House No. 1830, Jhalana House, Raja Shivdas Ji Ka Rasta, gangori Bazar, Jaipur (Raj.) thorough Power of Attorney Suresh Kumar Sharma S/o. Late Shri Kashi Narayan Ji Sharma, aged about 47 years, Resident of House No. 1830, Jhalana House, Raja Shivdas Ji Kas Rasta, Gangori Bazar, Jaipur (Raj.)

2. Saroj Sharma W/o. Shri Madan Lal Sharma D/o. Late Shri Kashi Narayan Ji Sharma, aged about 48 years, Resident of 70/20, Pratap Nagar, Sanganer, Jaipur (Raj.) thorough Power of Attorney Suresh Kumar Sharma S/o. Late Shri Kashi Narayan Ji Sharma, aged about 47 years, Resident of House No. 1830, Jhalana House, Raja Shivdas Ji Kas Rasta, Gangori Bazar, Jaipur (Raj.)

3. Suresh Kumar Sharma S/o. Late Shri Kashi Narayan Ji Sharma, aged about 47 years, Resident of House No. 1830, Jhalana House, Raja Shivdas Ji Kas Rasta, Gangori Bazar, Jaipur (Raj.)

4. Santosh Kumar Sharma S/o. Late Shri Kashi Narayan Ji Sharma, aged about 45 years, Resident of House No. 1830, Jhalana House, Raja Shivdas Ji Kas Rasta, Gangori Bazar, Jaipur (Raj.)

-----Petitioners

Versus

1. State of Rajasthan through Secretary Urban Development and Housing Department, Rajasthan Secretariat, Jaipur (Raj.)

2. Jaipur Development Authority through its Secretary, Indira Gandhi Circle, JLN Marg, Jaipur (Raj.)

3. Land Acquisition Officer, Urban Development Schemes, Jaipur Development Authority, Indra Gandhi Circle, JLN Marg, Jaipur (Raj.)

4. Deputy Commissioner, Zone-2, Jaipur Development Authority,
Indra Gandhi Circle, JLN Marg, Jaipur (Raj.)

----Respondents

For Petitioners	:	Mr. Abhay Kumar Bhandari Senior Advocate assisted by Mr. Mohit Balwada Advocate, Mr. Aditya Raj Advocate & Mr. Rakshit Jain Advocate.
For Respondents	:	Mr. Amit Kuri Advocate Mr. Ayush Sharma Advocate & Mr. Dharma Ram Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

Date of conclusion of arguments	::	07.07.2026
Date on which judgment was reserved	::	07.07.2026
Whether the full judgment or only the operative part is pronounced	::	Full Judgment
Date of pronouncement	::	16.07.2026

1. Petitioners have filed the present writ petition with following prayers:

"It is therefore prayed that this Hon'ble court may kindly peruse the relevant documents submitted in the writ petition and after examining the same :-

(i) by an appropriate writ, order or direction, the impugned letter / communication dated 14.3.2016 issued by Deputy Commissioner, Zone-II, JDA, Jaipur to the petitioner may kindly be declared as illegal and same may kindly be quashed and set aside by the Hon'ble Court.

(ii) by an appropriate writ, order or direction, the Land Acquisition proceedings in respect of land of petitioner bearing Khasra No. 173/2 and 174/2 measuring 7.5 Bigha situated at Revenue Village Beed Sarkari, Tehsil and District Jaipur may kindly be declared as having lapsed as per provision of 24(2) of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013.

(iii) by an appropriate writ, order or direction, the respondents be directed to grant 25% developed land at Vidhyadhar Nagar i.e. 4741.87 Sq. Meters in lieu of land acquired and taken possession of Khasra No. 173/2 and 174/2 measuring 7.5 Bigha situated at Revenue Village Beed Sarkari, Tehsil and District Jaipur.

(iv) by an appropriate writ, order or direction, the respondents be directed to grant 25% developed land in Vidhyadhar Nagar as is evident from the list of vacant land

available provided to the petitioner under Right to Information Act on 28.6.2016.

(v) Any other order, which this Hon'ble Court deem just and proper may kindly be passed in favour of the petitioner.

(vi) Cost of the writ petition may kindly be awarded in favour of the petitioner."

2. Although prayer clause (ii) relates to declaring the acquisition proceedings as having lapsed as per the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred as 'the Act of 2013'), such prayer was not pressed and learner Senior Counsel appearing on behalf of the petitioners confined his submission only to the extent of prayer made by the petitioners for grant of 25% developed land in lieu of the land acquired.

3. Facts of the case, in brief, are that the respondent-State Government issued notification dated 02.01.1981 under Section 52(2) of the Rajasthan Urban Improvement Act, 1959 (hereinafter to be referred as 'the Act of 1959') for establishment of a housing scheme by then Urban Improvement Trust. Following the aforesaid notification, State Government issued notification under Section 52(1) of the Act of 1959 and pursuant thereto possession of the land under acquisition was delivered by the petitioners to the Land Acquisition Officer, who in turn, handed over the same to the representative of then Urban Improvement Trust. Thereafter, an interim award dated 17.10.1984 was passed in order to grant monetary compensation for acquiring the lands falling within Khasra No. 173/2 measuring 10 Bighas and 4 Biswas and Khasra No. 174/2 measuring 4 Bighas and 16 Biswas situated

at Revenue Village Beed Sarkari, Tehsil and District Jaipur (hereinafter to be referred as 'the land in question').

4. In compliance of interim award dated 17.10.1984, part compensation was paid to the co-sharer of the petitioners on 26.11.1984. Thereafter, notices were issued to the petitioners by the Land Acquisition Officer for receiving the compensation pursuant to award, but the petitioners did not turn up for accepting the monetary compensation. Final award, after approval of the State Government, was declared by the Land Acquisition Officer on 25.07.1989. Thereafter, a dispute with regard to entitlement to receive compensation was raised by the Administrator of Adarsh Grah Nirman Sahkari Samiti, which was referred to the Civil Court for adjudication under Section 30 of the Land Acquisition Act, 1894 (hereinafter to be referred as 'the Act of 1894'). On 14.03.2015, the reference was disposed of by the Lok Adalat on the basis of consent/compromise arrived at between the parties and directions were given to Jaipur Development Authority to disburse the compensation as per the award to the petitioners.

5. The case set up by the petitioners is that till date, they have not received even a single penny towards monetary compensation and as per different circulars/policies issued by the State Government from time to time, they are entitled for allotment of developed land in lieu of the acquired land. It is an admitted case of the petitioners that initially circular dated 13.12.2001 was issued by the State Government revealing therein that in the land acquisition matters, where although award has already been passed, yet compensation amount was not received

on account of any reason, opportunity was to be granted to such land owners for getting allotment of 15% developed land in lieu of the acquired land.

6. As per the petitioners, they immediately submitted their option for allotment of 15% developed land which was received by the respondent-JDA on 27.02.2002. However, at the relevant time, such option was not acted upon by Jaipur Development Authority on the pretext that the reference petition under Section 30 of the Act of 1894 was pending. Thereafter, circular dated 27.10.2005 was issued by Urban Development Department of respondent-Government, making it clear that instead of 15% developed land earlier proposed in lieu of acquired land, 25% developed land shall be allotted to the interested land owners.

7. The petitioners have come out with a case that after issuance of circular dated 27.10.2005, they are entitled for 25% developed land, yet Jaipur Development Authority was offering only 15% developed land whereas so many other similarly situated persons have been allotted 25% developed land. Petitioners have also relied upon circular dated 03.02.2015 issued by Urban Development Department for dealing with the pending cases where khatedars have not received compensation and where compensation was deposited in the Court. Such khatedars, as per the petitioners, were held entitled for allotment of 25% developed land in lieu of the acquired land. It is informed by learned counsel for the petitioners that earlier also S.B. Civil Writ Petition No. 13438/2014 was filed on behalf of Petitioner No. 3,

yet the same was withdrawn by Petitioner No. 3 with liberty to file fresh petition.

8. Mr. Abhay Kumar Bhandari, learned Senior Counsel appearing on behalf of the petitioners submitted that the land owners have got legitimate right to get fair compensation as per the prevailing policy of the Government against the acquisition of their lands and in the instant case, neither monetary compensation has been paid to the petitioners, nor have they been allotted 25% developed land as per the prevailing policy of the respondents. It is submitted that under these circumstances, rights guaranteed under Article 300A of the Constitution of India have been violated as the petitioners have been deprived of their land without compensation. The petitioners have placed on record allotment letters so as to show that even up to 2023, khatedars of various lands have been allotted 25% developed land and such benefits have not been extended to the petitioners, which is a clear cut discrimination. It is submitted that the respondents are under an obligation to adopt same yardstick for granting similar benefits to all similarly situated persons and offering 15% developed land to the petitioners instead of their entitlement for 25% developed land is arbitrary and in violation of Article 14 of the Constitution of India.

9. Writ petition has been opposed by the respondents and it has been submitted that in the instant case, the respondents cannot be blamed for non-acceptance of monetary compensation by the petitioners and it was submitted that after passing of the interim award, notices were issued by the Land Acquisition Officer

to the petitioners for accepting monetary compensation, however, they did not turn up.

10. Learned counsel for the respondents submitted that thereafter, admittedly dispute with regard to entitlement of compensation between the co-operative society and the petitioners was referred to the Civil Court under Section 30 of the Act of 1894 and during such period, compensation awarded by the competent authority was deposited with the Civil Court. Thus, delay in payment of monetary compensation, if any, under these circumstances cannot be attributed to the respondents.

11. Learned counsel for the respondents further submitted that admittedly scheme was launched by the State Government by way of circular dated 13.12.2001, whereby, in the cases where monetary compensation could not be paid to the khatedars against the acquisition of their lands for any reason whatsoever, the State Government granted them liberty to get allotment of 15% developed land in lieu of acquired land. Learned counsel for the respondents submitted that pursuant to such scheme, the petitioners have also submitted their option for getting allotment of 15% developed land and accordingly, it was acted upon by the respondents and 15% developed land was offered to the petitioners.

12. Learned counsel for the respondents submitted that so far as circular dated 27.10.2005 is concerned, whereby earlier provision of allotting 15% developed land was modified and land owners were held entitled to get 25% developed land (20% residential land and 5% commercial land) in lieu of acquired land,

it is apparently prospective in nature and shall be applicable only in the cases where award has been passed on or after 27.10.2005.

13. In support of above contention, learned counsel for the respondents drew indulgence of this Court towards circular dated 03.02.2015, which has also been relied upon by the petitioners, which makes it absolutely clear that circular dated 27.10.2005 shall apply only in the cases where award has been passed after 27.10.2005. Learned counsel submitted that such specific provision mentioned in circular dated 03.02.2015 has not been challenged by the petitioners.

14. As regards plea of discrimination, it was clarified by learned counsel for the respondents that petitioners have utterly failed to point out even a single case where land owners have been allotted 25% developed land even in the cases where award was passed prior to 27.10.2005. The instances cited and relied upon by the petitioners in the instant petition are apparently distinguishable for the reason that in all such cases, either award was passed subsequent to 27.10.2005 or an order has been issued by Jaipur Development Authority under Section 44 of the Jaipur Development Authority Act, 1982 (hereinafter to be referred as 'the JDA Act') while acquiring the land by consent. Parity cannot be claimed by the petitioners with such cases having altogether different facts. In view of above, learned counsel for the respondents reiterated that the petitioners are entitled only for 15% developed land and not for 25% developed land. Based on above submissions, learned counsel for the respondents prayed for dismissal of writ petition.

15. This Court has heard the arguments advanced by learned counsel for the parties and carefully examined the material on record.

16. Facts stated in memo of writ petition qua the proceedings of acquisition are not disputed where pursuant to initial notification dated 02.01.1981, possession of the land in question was taken and final award was passed on 25.07.1989. It is also not disputed that the monetary compensation awarded in respect of acquisition of land in question was also deposited with the Civil Court on account of there being a dispute with regard to entitlement. A reference under Section 30 of the Act of 1894 was also made to the Civil Court for adjudication. Aforesaid dispute was resolved by way of compromise entered into between the parties and accordingly, order dated 14.03.2015 was passed in reference by the Lok Adalat to disburse the compensation to the petitioners.

17. In the meanwhile, Urban Development and Housing Department of respondent-Government launched scheme for allotting developed land in lieu of monetary compensation for acquisition of land. As per record, initially scheme was launched on 13.12.2001, whereby, 15% developed land was to be offered to the land owners in the cases where monetary compensation against acquisition was not paid. The petitioners have not disputed that in pursuant of aforesaid circular dated 13.12.2001, they submitted their option for getting allotment accordingly and such offer of the petitioners was also accepted subsequently by Jaipur Development Authority for allotting them 15% developed land.

18. On issuance of subsequent circular dated 27.10.2005, the petitioners are claiming 25% developed land instead of 15% developed land and it has been argued that circular dated 27.10.2005 itself reflects that earlier scheme of granting 15% developed land against acquisition of land has been revised by the State Government and instead of 15% developed land, 25% developed land shall be allotted to the land owners. However, a bare perusal of circular dated 27.10.2005 nowhere reflects that such circular shall be applicable retrospectively even in the cases where award has been passed prior to 27.10.2005. Rather language of the circular is quite clear and the rights accruing therein for additional land are apparently prospective in nature and meant for only such cases where award has been passed on or after 27.10.2005.

19. Circular dated 03.02.2015 relied upon by the petitioners themselves would clarify the above position where in no uncertain terms, it has been provided that 25% developed land shall be allotted only in the cases where award was passed subsequent to 27.10.2005. In quiet explicit words, the time for giving option for 15% developed land in the cases where award has been passed before 27.10.2005 was extended for submitting options up to 30.04.2015. The aforesaid circular dated 03.02.2015 also clearly states that provision for allotting 25% developed land was available only in the cases where award has been passed on or after the date of issuance of circular dated 27.10.2005. Condition No. 1 and 2 of circular dated 03.02.2015 are being reproduced hereunder:

"1. दिनांक 27.10.2005 से पूर्व के जारी अवार्ड में भूमि के बदले विकसित भूमि 15 प्रतिशत दिये जाने का प्रावधान था। अतः दिनांक 27.10.2005 के पूर्व के प्रकरणों में अन्य के समान अवाप्त भूमि के बदले 15 प्रतिशत विकसित भूमि दिये जाने का विकल्प प्रस्तुत करने हेतु समयावधि 30.04.2015 रहेगी।

2. दिनांक 27.10.2005 के पश्चात जारी अवार्ड में भूमि के बदले विकसित भूमि 25 प्रतिशत दिये जाने का प्रावधान था। अतः दिनांक 27.10.2005 के पश्चात के प्रकरणों में अन्य खातेदारों के समान अवाप्त भूमि के बदले विकसित भूमि दिये जाने बाबत विकल्प प्रस्तुत करने हेतु समयावधि 30.04.2015 रहेगी।"

20. In the instant writ petition, the petitioners have not challenged circulars dated 27.10.2005 and 03.02.2015, which make the scheme of allotment of 25% developed land applicable only in the cases where award has been passed subsequent to 27.10.2005. Thus, under these circumstances and in view of the fact that date of entitlement for allotment of additional land is conspicuous under the scheme of the Government, the petitioners cannot claim 25% developed land in lieu of acquisition and they are entitled only for 15% developed land as per circular dated 13.12.2001.

21. It has also been argued that the petitioners have been subjected to hostile discrimination since other similarly situated persons have been allotted 25% developed land in lieu of acquired land, yet the petitioners have been deprived of such benefits and were offered only lesser land than the other similarly situated persons. In order to claim parity and equality, there should be clear factual foundation on record. The petitioners are required to make out a case that in respect of same acquisition or even in the acquisition proceedings where award was passed prior to issuance of circular dated 27.10.2005, the respondents have allotted 25%

developed land. However, no such document has been placed on record so as to claim similar benefits. Some of the allotment/reservation letters have also been placed on record by the petitioners, yet bare perusal of the same would reveal that such letters are either outcome of acquisition by consent under Section 44 of the JDA Act where allotment has been made somewhere in the year 2023 or date of award has not been made clear. Under these circumstances, plea of discrimination as raised by the petitioners cannot be sustained and the same is hereby rejected.

22. In the light of foregoing discussion, this Court does not find any ground to interfere in the action of the respondents and it is hereby held that the petitioners are entitled for allotment of 15% developed land and not for 25% developed land.

23. Consequently, writ petition filed by the petitioners is hereby dismissed.

24. Pending applications, if any, also stand dismissed.

(ANAND SHARMA),J

MANOJ NARWANI/