

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 10835-37/2005

% DATE OF DECISION : 29th JULY, 2008

JAI PAL & ORS.

Through:

..... Petitioner

Mr. Satpal Singh, Advocate

versus

LAND ACQUISITION COLLECTOR (LAC)

Through:

..... Respondent

Mr. Sanjay Poddar, Advocate

CORAM:

HON'BLE MR. JUSTICE MUKUL MUDGAL

HON'BLE MR. JUSTICE MANMOHAN

1. Whether Reporters of local papers may be allowed to see the judgment? No.
2. To be referred to the Reporter or not? No.
3. Whether the judgment should be reported in the digest? No.

J U D G M E N T

MUKUL MUDGAL, J: (ORAL)

The present writ petition seeks the following relief:

- “(a) pass an order, direction or an appropriate writ in the nature of mandamus directing the respondents to make the payment of compensation of the acquired land under award No. 4/98-99 dated 26.2.1997 to the petitioners to the extent of rights of the Assami; or alternatively,*
- (b) Pass an order/directions or an appropriate writ in the nature of mandamus directing the respondent to refer the claim petitions of section 9 and 10 of the Land Acquisition Act to the Addl. District Judge, Delhi, Civil Court for adjudication upon the right of the parties as to the apportionment of the compensation.”*

The counsel for the respondent has filed a counter-affidavit wherein following assertion without denial in rejoinder has been made.

“4. That the land in question was acquired vide notification under section 4 of the Land Acquisition Act issued on 31.10.1996 followed by declaration under Section 6 of the Act on 26.02.1997. After issuing notices under Section 9 and 10 of the Act, the LAC made awards bearing nos. 4/98-99 on 15.2.1999. The possession of the land in question was taken over and handed over to the beneficiary on 3.9.1997. The compensation has been assessed in favour of the Gaon Sabha as the Gaon Sabha is the recorded owner. It is submitted that the payment of the compensation was released to the B.D.O. (South) on 31.03.2004.”

The claim raised in the present petition is on the basis of petitioner's status as Assami of the land in question which is said to be leased to the petitioner by the Gaon Sabha. Since as per counter-affidavit compensation has already been paid to the Gaon Sabha, though according to the petitioner wrongly so, we are of the view that it will be appropriate for the petitioner to assert his rights as available to him under law as an Assami asserted in this petition, by filing an appropriate civil suit.

With the aforesaid liberty to file a civil suit, the writ petition is disposed of as infructuous.

MUKUL MUDGAL, J

MANMOHAN, J

JULY 29, 2008
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