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HIGH COURT OF DELHI : NEW DELHI

Date of Order : August 12, 2008

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Writ Petition (C)No. 12538/2006

% Shri Har Lal ... Petitioner
Through: Mr. Ajay Verma , advocate

versus

Land Acquisition Collector and
Another ... Respondents
Through: Mr. Sanjay Poddar , Advocate for
the Respondent no.1.
Mr. Sanjay K Pathak, Advocate for
Respondent no.2.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.(ORAL)

1. Before commencing arguments in the instant writ petition, learned counsel for the petitioner states that the petitioner expired on 15.01.2008 and was survived by his three sons, namely Mahavir, Satyapal and Sishpal. Learned counsel for the petitioner

states that apart from being blessed with three sons who survived the deceased, no other sibling of Mahavir, Satyapal and Sishpal is in the world of the living. Learned counsel states that Har Lal's wife has pre deceased him. Learned counsel states that an application under order 22 rule 3 CPC seeking impleadment was filed on 09.04.2008.

2. Unfortunately, the same is not on record.

3. On an oral application moved by learned counsel for the proposed legal heirs of the deceased seeking their impleadment; accepting the same, we allow the substitution of Mahavir, Satyapal and Sishpal as legal heirs of the deceased petitioner.

4. Amended memo of parties would be filed in the registry within two weeks.

5. Arguments have been heard in the writ petition.

6. Deceased Har Lal claims to be a co-sharer of agricultural land situated in the revenue estate of village Mahipal Pur. Details of the land are disclosed in para 2 of the petition. This fact is not in dispute.

7. A notification under Section 4 of the Land Acquisition Act 1894 was issued on 23.01.1965. Declaration under Section 6 of the said Act was issued on 07.04.1966. The notification and the declaration pertained to agricultural land in village Mahipal Pur and included the land detailed in para 2 of the writ petition of which deceased petitioner was a co-sharer.

8. Award in respect of the land covered by the notification and the declaration in question, being awarded No.2182-C was published on 29.04.1974.

9. Out of 61 bigha and 2 biswa land of which deceased petitioner was a co-sharer, except 1 bigha 11 biswa, possession of the remaining land was taken over on 24.11.1980.

10. 1 bigha and 11 biswa land, possession whereof was not taken over is stated to be comprised in khasra no.50-1 (min), 51/1, 52/1 and 59/1, village Mahipal Pur.

11. Grievance in the writ petition is that after more than two decades of the publication of the award, possession of 1 bigha and 11 biswa land cannot be taken over. Prayer made is to quash the award dated 29.04.1974 with further prayer to restrain the

respondents from taking possession of the balance land possession whereof was not taken over.

12. In the counter affidavit it has been explained that certain acquired land could not be taken possession of on account of being heavily built upon. That the acquisition was for purposes of the planned development of Delhi. That the built upon land was required for utilization by the Airport Authority of India a little late, possession whereof was taken over on 3.8.2006.

13. After attempting to argue the writ petition in respect of the first prayer, learned counsel for the petitioner fairly conceded that the issue is squarely covered by the decision reported as 119(2005)DLT 458 (DB) Balwant & Others Vs. UOI & others, Counsel urges that the writ petition may be disposed of granting relief to the petitioner pari-materia with the relief granted by the Division Bench in Balwant's case (supra).

14. Declining to quash an acquisition on account of delay in taking over possession of the acquired land, Division Bench of this court noted the directions issued by the Hon'ble Supreme Court in the decision reported as (1977) 1 SCC, 15, Murari & ors Vs. UOI & ors and disposed of the writ petition filed by Balwant & ors

recording that the relief granted by the Hon'ble Supreme Court in Murari's case would be the relief which needs to be granted to Balwant & ors.

15. We do likewise.

16. In Murari's case, Hon'ble Supreme Court held that on account of the delay occasioned in the acquisition, recompense was required for the land owners. Recompense was as follows:-

The transfer cases are allowed in terms of the order made in the case of Ram Chand directing that the transfer petitioners and the appellants shall be paid an additional amount of compensation to be calculated at the rate of 12 per cent per annum, after the expiry of two years from the date of decision of Aflatoon case i.e. 23.8.1974 till the date of making of the awards by the Collector, to be calculated with reference to the market value of the land in question on the date of notification under section 4(1) of the Act. In the facts and circumstances of the case we make no order as to costs."

17. The writ petition accordingly stands disposed of declining the relief as prayed for but with a direction to the respondents to pay money to the petitioners in terms of the direction issued by the Hon'ble Supreme Court in Murari's case and as noted above but restricted to the balance land possession whereof was taken over on 03.08.2006.

18. No costs.

PRADEEP NANDRAJOG, J

SUNIL GAUR, J

August 12, 2008
DKG