

HIGH COURT OF DELHI: NEW DELHI

LA.APP. No. 760/2006

Judgment reserved on: 29.10.2009

Date of Decision: 16.12.2009

Sarup Singh & Ors. APPELLANTS
Through: Mr. I.S. Dahiya, Adv.

Versus

UOI & Ors. RESPONDENTS
Through: Mr. Sanjay Poddar, Adv. for UOI

CORAM:
HON'BLE MR. JUSTICE S.L. BHAYANA

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

S.L. BHAYANA, J

The appellants have preferred the present appeal against the award/order dated 3.3.2005 passed by the Additional District Judge, Delhi in LAC No. 3/2004

2. The brief facts of the present case are that the land of the appellants' predecessor late Shri Chajju situated in village Sahpur, measuring 6 bighas was acquired u/s 4 & 6 of the Land Acquisition Act 1894, vide award no 17/1986-87 dated 01.09.1986. The reference petition was filed before Land Acquisition Collector on 26.09.1986 which was sent to the learned ADJ, Tis Hazari courts, Delhi for adjudication. The Land Acquisition Collector in his award assessed the market value at the rate Rs 13,000 per bigha for category "A" Rs 11,000 per bigha for category "B" and Rs 8,000 per bigha for category

“C” and also granted other statutory benefits. Though the compensation has been increased from 13,000/- to Rs 47,224 per bigha by the learned ADJ, but the appellants have not been given statutory interest for the period 29.04.1991 to 11.09.2001 on the grounds that public exchequer should not be made to suffer due to the fault of the petitioners or his LRs. The fault of the appellant is that the petition was dismissed for non prosecution on 29.04.91 and restored only on 11.09.2001.

3. The learned counsel for the appellants has submitted that, the learned ADJ has awarded the compensation of Rs.47, 224/- per bigha to the petitioners but they have been wrongly denied the benefit of interest for the period with effect from 29.04.1991 to 11.09.2001 by the trial court. The counsel for the appellants has relied upon the judgment titled ***Sunder Singh vs. Union of India 93(2001) DLT 567.***

4. The counsel for the respondent has submitted that the LRs will not be entitled to get interest for the period from 29.4.1991 to 11.9.2001 as the appellants failed to pursue this case during this period and the public exchequer should not be made to suffer due to the fault of the appellants.

5. Learned counsel for the respondents has relied upon the judgment of Division Bench of this Court in 120(2005) DLT 348 titled ***“Kanwar Singh Vs. Union of India”***, wherein it has been held that it has been the consistent practice of this court in a number of matters that whenever such application have been filed belatedly, the same are allowed only subject to restriction of non –grant of interest for the period of delay from the date of filling of the appeals or the date of filing of application. The view is based on the fact that in respect of

matters of interest, the same is the discretion of the court and this discretion has been so exercised since the government cannot be burdened with the interest and costs in respect of a claimant who has chosen not to claim the amount before the competent court. The matter of the grant of interest is in the discretion of the court and the Supreme Court in ***Raghubhans Narain Singh Vs. The U.P. Government through collector of Bijnor. AIR 1967 SC 465***, has held by reference to the language of section 28 of the Act that the words “may direct” means that it is discretionary on the part of the court to grant or to refuse to grant interest.

6. The learned counsel for the respondent further submits that the above view has been followed by this Hon’ble court in number of cases consistently where ever there is a delay and default on the part of the appellant in pursuing the case. Learned counsel for the respondents has also relief upon the judgment ***Jagmohan vs. UOI, 2006 (131) DLT 374***. It is submitted that this Hon’ble court has been condoning the delay liberally on the part of the land owner and granted equal compensation to all the affected owners. At the same time declining to exercise the discretion in favor of the defaulting parties in as much as it is well settled law that no person can take advantage of his own wrong. Apart from this rate of interest under the LA Act is 15% PA and no financial institution is paying this much interest. In case the interest is also claimed by the defaulting party and granted then it would amount to getting premium over the dilatory tactics. In the present case the interest for the default period would be about 150% of the compensation amount, which would be more than the principal amount. The learned reference court has rightly observed that the public exchequer cannot be made to suffer

for the fault of the appellants, who were negligent in pursuing the case in as much as even the application for restoration was dismissed for non prosecution and was restored on payment of costs.

7. Heard learned counsel for the parties and perused the record.

8. Learned counsel for the respondent states that the reliance of the appellant on the judgment of this Hon'ble court in case of ***Sri Ram and others V. UOI*** and others is totally misplaced, the facts of both the cases are different. In that case restoration was applied immediately and the case was resorted in a couple of months. The decision of the Hon'ble Court in the case of ***Raghubhans Narain Singh*** (supra) was also not brought to notice of the Hon'ble Court, which is applicable to facts of the present case.

9. I am in respectful agreement with the law laid down by Hon'ble Supreme Court in ***Raghubhans Narain Singh*** (supra) and also by the Division Bench of this Court in the case of ***Sunder Singh Vs. UOI*** (supra). The facts of both these cases apply to the facts of the present case also. The petition before the learned trial court was dismissed for non-prosecution on 29.4.1991 and it was restored only on 11.9.2001 i.e after more than ten years of the dismissal of the petition. The petitioners were negligent in moving an application before the Court for restoration of the petition. Even the petition for restoration was dismissed by the reference Court and the said petition for restoration was restored by the learned trial Court on payment of costs by the petitioners. In my opinion the appellants were negligent in pursuing the matter diligently and carefully. The public exchequer should not be made to suffer due to the fault of the appellant and the LRs of the appellant. In my opinion the appellants are not entitled to interest for this period from 29.4.1991 to 10.9.2001 during which the

petition remained dismissed for non-prosecution. There is no merit in the appeal filed by the appellant and the same is therefore dismissed.

10. With these observations, the appeal stands disposed of.

S.L.BHAYANA, J

December 16, 2009