

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **LA. APP. 277/2008**

Date of decision : 18.03.2010

IN THE MATTER OF :

YAD RAM Appellant
Through: Mr. Sakal Bhushan, Advocate with
Mr. Surendra Kumar and Mr. Robin George, Advs.

versus

UNION OF INDIA & ANR Respondents
Through: Mr. Ramesh Ray, Advocate for R1/UOI.

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+ **LA. APP. 300/2008**

DALIP SINGH Appellant
Through: Mr. Sakal Bhushan, Advocate with
Mr. Surendra Kumar and Mr. Robin George, Advs.

versus

UNION OF INDIA & ANR Respondents
Through: Mr. Ramesh Ray, Advocate for R1/UOI.

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* **HON'BLE MS.JUSTICE HIMA KOHLI**

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| 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 |

HIMA KOHLI, J. (ORAL)

1. The appellants herein are aggrieved by the judgments dated 30.10.2007 (in LA.APP.277/2008) and dated 29.10.2007 (in LA.APP.300/2008) passed by the Reference Court in respect of land situated in village Dhool Siras, covered under Award No.27/02-03.

2. Counsel for the appellants states at the outset that all the connected matters in respect of land situated in village Dhool Siras, covered under Award No.27/02-03 pronounced on 24.10.2002, have been remanded back by the Division Bench vide judgment dated 28.08.2008 passed in a batch of matters, lead matter being **LAA 323/2007** entitled Prem vs. Union of India & Anr. He submits that the present matters are also liable to be remanded back for re-consideration by the Reference Court on the same lines as ordered by the Division Bench in the aforesaid connected matters.

3. Photocopy of the aforesaid judgment is handed over by the counsel for the appellants and taken on record. Advance copy thereof has also been furnished to the counsel for the respondent/Union of India. The relevant paras of the aforesaid judgment are extracted hereinbelow:

"20. The learned Reference Court has proceeded to adjudicate the claims treating the dispute as being inter se the gaon sabha and the individual claimants. This is evident from the fact that in the reference made the gaon sabha of the village has been shown as IP No.1 and the claimant as IP No.2. Where, pertaining to a single reference there were more claimants, they have been shown as IP No.2 and so on.

21. Unfortunately, none brought to the notice of the learned Reference Court that when reference was made and for that matter when proceedings were initiated under the Land Acquisition Act 1894 and when declaration under Section 4 thereof was issued on 13.12.2000, the gaon sabha had ceased to exist. Gaon sabha area had ceased to exist. All properties of the gaon sabha were vested in the Central Government. Meaning thereby, the learned Reference Court has answered the reference without impleading the Union of India as a party.

22. At this stage we would like to clarify that in the

reference, Union of India through the Land Acquisition Collector District (South-West) Delhi has been shown as the petitioner and, as noted above, gaon sabha village Dhool Siras and claimants were shown as IP No.1, IP No.2 and so on.

23. The memo of parties recorded in the reference gives a misleading suggestion as if Union of India participated as a litigating party. Admittedly, the fact is that it did not.

24. Whenever the Land Acquisition Collector forwards a reference under Section 30/31 of the Land Acquisition Act 1894 the cause title always shows the reference as UOI through the Land Acquisition Collector as the petitioner and other parties likely to be affected by the reference and having a stake therein as IP No.1, IP No.2 and so on.

25. The reason that Union of India, to be represented, as stated at the bar by Sh. P.P. Malhotra learned Additional Solicitor General, through Ministry of Urban Development was not put to notice by the Reference Court and vital rights of Union of India are affected by the impugned orders is by itself sufficient for us to quash the impugned orders in afore-noted appeals and remand the matter to the Reference Court for fresh adjudication.

26. But we would like to pen down a few more lines so that, at the remanded stage, learned Reference Court focuses on the relevant issues.

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34. We do not propose to answer any of these questions for the reason they need be answered by the Reference Court at the first instance.

35. At this stage, Mr. Gaurav Sarin learned counsel for DDA states that it may be clarified that even DDA would be permitted to participate in the proceedings at remand for the reason the subject lands have been placed at the disposal of DDA and DDA would be affected by a decision.

36. It is settled that even a beneficiary can participate in reference proceedings because the beneficiary has to pay the compensation awarded.

37. Thus, we direct that at the remanded stage the

learned Reference Court would permit impleadment of DDA as a party in the reference.

38. The appeals stand disposed of setting aside the impugned orders which are challenged in these appeals. The references which are the subject matter of the appeals are restored before the learned Reference Court for fresh adjudication after permitting impleadment as afore directed.

39. Since all parties are represented before us we direct that the learned Reference Court, on revival of the instant reference proceedings, would take up the matter on 3.11.2008.

40. Needless to state this Court has not expressed any opinion on the merits of the controversy and at the remanded stage all contentions available and urged would be dealt with by the learned Reference Court.

41. The certified copy of the present order be supplied dasti to learned counsel for the parties on payment of usual charges.

42. No costs."

4. It is stated that the Union of India has been duly served in the said proceedings and the remanded matters are presently being argued before the Reference Court.

5. In view of the fact that the land, subject matter of present appeals situated in village Dhool Siras is covered by the same Award, which was subject matter of consideration in the aforesaid matters, it would be appropriate that the present appeals be also remanded back to the Reference Court for fresh adjudication on the same terms and conditions as laid down by the Division Bench in the aforesaid judgment dated 28.08.2008.

6. Accordingly, the impugned judgments dated 30.10.2007 and 29.10.2007 are set aside. The appeals are remanded back to the Reference Court for fresh adjudication. As the lower court record has been tagged with these files, the Registry is directed to remit the lower court record to the Reference Court forthwith to enable the Reference Court to proceed with the hearing in the matters afresh.

7. The appeals are disposed of with no orders as to costs.

(HIMA KOHLI)
JUDGE

MARCH 18, 2010
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