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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.M. (Main) No.105 of 2010 & C.M. Appl. Nos.1561-1562 of 2010

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27.01.2010

DEVINDER MEHRA

.....Petitioner

Through: Mr. Dinesh Agnani, Advocate.

Versus

UNION OF INDIA & ANR.

.....Respondents

Date of Order: 27th January, 2010

JUSTICE SHIV NARAYAN DHINGRA

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

J U D G M E N T (O R A L)

1. By this petition, the petitioner has assailed an order dated 17th December, 2009 whereby an application of the petitioner under Order VI Rule 17 CPC was dismissed by the trial court.

2. The brief facts relevant for the purpose of deciding this petition are that a reference petition under Section 18 of the Land Acquisition Act was filed before the trial court at the behest of the petitioner for enhancement of compensation in respect of the property of the petitioner acquired by the respondent at Cavalary Lane, Mall Road. Notification under Section 4 of the Land Acquisition Act was made in December, 2000 and property was acquired soon thereafter. By way of amendment, the petitioner wanted to amend the reference and bring on record the facts of purchase of a property by the petitioner bearing No.B-459, New Friends Colony, New Delhi by way of a sale deed on

7th July, 2005 to show the market value of the property was much more than the compensation as granted by the LAC in its award.

3. The trial court dismissed the application on the grounds that the property purchased by the petitioner was situated several miles away from acquired property and the sale deed was of a period after five years of the acquisition of land. Thus, the amendment was not relevant.

4. It is submitted by counsel for the petitioner that the petitioner had right to amend the suit and the trial court misunderstood the legal position.

5. I consider that this petition is an abuse of the process of the court. For determining whether the compensation of acquired land as awarded to the petitioner was in accordance with the market value or not, the reference court can take into account the sale transactions only of the area adjoining to or nearby the area where land/property acquired is situated and of the period when property was acquired. The area of New Friends Colony is at least 30 kilometers away from Cavalary Lane. The New Friends Colony falls in South Delhi on Mathura Road whereas the property acquired is in North Delhi on Mall Road. The value of the land in Delhi differs from place to place, colony to colony and area to area. A sale deed of New Friends Colony cannot be reflective of the value of land at Mall Road. If the sale deed of the New Friends Colony can be reflective of market value, then the sale deeds of the land in Uttam Nagar in West Delhi can also be reflective. Thus, the respondent in such a case would have liberty to place on record sale deeds of Uttam Nagar and every other colony which was far away from Mall Road and land was quite cheap. That would in fact go against the petitioner.

6. The petitioner cannot have liberty to make amendments in the suit so as to bring on record irrelevant documents. The sale transaction which petitioner wanted to introduce by way of amendment was totally irrelevant for the purpose of deciding the issue before reference court and the application was rightly disallowed by the trial court.

7. The petition has no force and is hereby dismissed with cost of Rs.10,000/- to be deposited with Delhi High Court Legal Aid Committee. The cost, if not paid, shall be recovered by the trial court.

SHIV NARAYAN DHINGRA J.

JANUARY 27, 2010
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