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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LA.APP. 593/2011

UNION OF INDIA

..... Appellant

Through: Mr. Sanjay Kumar Pathak, Adv.

versus

BALWANT SINGH & ANR.

..... Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

O R D E R

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15.09.2011

CM 17220/2011 (condonation of delay in filing the appeal)

This application is filed by the appellant praying *inter alia* for condonation of delay of 32 days in filing the accompanying appeal.

For the reasons stated in the application, particularly paras 2 to 4 thereof, the same is allowed. The delay of 32 days in filing the accompanying appeal is condoned.

The application is disposed of.

LA.APP. 593/2011 and CM 17219/2011 (stay)

1. The appellant/Union of India is aggrieved by the judgment dated 09.05.2011 passed by the Reference Court in respect of Award No.06/2004-05 made pursuant to Section 4 Notification issued on

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06.02.2003 in respect of the land situated in village Ghevra. 2/

2. At the outset, learned counsel for the appellant/Union of India states that the appeals preferred by the expropriated landowners against the impugned judgment in respect of the same Award, covered under the same notification, were allowed by a co-ordinate Bench (Pradeep Nandrajog, J.) vide judgment dated 02.06.2011 passed in a batch of matters, lead matter being **LA.APP. 489/2008** entitled Chiranji Lal vs. Union of India & Anr. He states that the appellant/Union of India is contemplating preferring an appeal against the aforesaid judgment, in respect of the land situated in village Ghevra under the aforesaid Award but as on date the aforesaid judgment has to be considered as final.

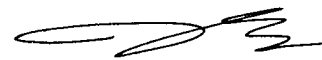
3. A copy of the aforesaid judgment in the case of Chiranji Lal(supra) is handed over by the counsel for the appellant/Union of India, which is taken on record. The operative paras of the aforesaid judgment are reproduced hereinbelow for ready reference:-

"18. Thus, with respect to the price ₹2,35,815/- per bigha as of 11.6.1996 and giving 10% increase per annum the fair market value of the land of the appellants works out to ₹4,03,425/- per bigha and thus we dispose of the appeals enhancing the compensation payable to the appellants to ₹4,03,425/- per bigha. We further decree that the appellants would be entitled to solatium and interest as per statute and as clarified in the decision reported as **93 (2001) DLT 569** Sunder vs. UOI.

19. Proportionate costs are also awarded.

20. All pending applications stand disposed of in terms of the prayers made therein and cross objections, if any, filed by Union of India are dismissed."

3. Accordingly, following the aforesaid decision dated 02.06.2011 in the case of Chiranjil Lal (supra), the present appeal filed by the appellant/Union of India is dismissed along with the pending application, on the same lines as set out in the aforesaid judgment.



HIMA KOHLI,J

SEPTEMBER 15, 2011
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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 2nd June, 2011

+ LA.APP.489/2008

CHIRANJI LAL Appellant
Through: Mr.Shyam Sunder, Advocate.

versus

UOI & ANR. Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.1089/2008

SH.NET RAM Appellant
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

versus

UOI & ANR. Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.1090/2008

SH.HANS RAJ & ORS. Appellant
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

versus

UOI & ANR. Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.1091/2008

RAJ SINGH & ORS.

..... Appellants
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

UOI & ANR.

versus
..... Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.1162/2008

VINOD MITTAL

..... Appellant
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

UOI & ANR.

versus
..... Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.1163/2008

SEEMA DEVI BANSAL

..... Appellant
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

UOI & ANR.

versus
..... Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

LA.APP.212/2011

HARI DUTT & ORS.

..... Appellants
Through: Mr.S.Chaturvedi and Mr.R.S.Dalal,
Advocates.

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UOI & ANR. versus Respondents
Through: Mr.Sanjay Poddar and Mr.Ashish
Tanwar, Advocates for UOI.
Ms.Indrani Ghosh & Ms.Shobhna Takiar,
Advocates for DDA.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

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. Vide impugned decisions the Reference Court has held that the appellants are not entitled to any enhancement of the compensation assessed by the Land Acquisition Collector.
2. The appeals relate to lands in village Ghewra, which were the subject matter of acquisition pursuant to a notification dated 6.2.2003 issued under Section 4 of the Land Acquisition Act 1894.
3. In the decision dated 19.12.2008, deciding a batch of Land Acquisition Appeals, lead matter being LA.APP.No.193/2006 Pratap Singh (Thru LRs) vs. UOI & Ors., pertaining to lands in the revenue estate of village Tikri Kalan and village Ghewra; holding that the 2 lands were of equivalent nature, and I note that the 2 lands are situated on the either side of a railway line, the Division Bench assessed the market value of the land in village

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Tikri Kalan, as of 16.11.1995 @₹2,15,160/- per bigha for Block-A land and pertaining to a notification under Section 4 of the Land Acquisition Act dated 11.6.1996, had determined the compensation for Block-A land at ₹2,35,815/- per bigha.

4. Thereafter, with reference to village Tikri Kalan, pertaining to a notification issued under Section 4 of the Land Acquisition Act 1894 on 17.12.2002, the Division Bench determined the compensation at ₹4,02,850/- per bigha on the following reasoning:-

"Since we have revised the market value in respect of the aforesaid Award at ₹2,35,815/- for Block-A and ₹1,90,156/- for Block-B, further enhancement has to be given on these rates for the period from 17.11.1995 to 17.12.2002. However, at the same time, we are of the view that in these cases enhancement @12% p.a. should not be given because of the reason that in some of these areas the market value of the land had even gone down. Therefore, taking holistic view of the matter and balancing the upward and downward trends, we are of the opinion that interest of justice would be subserved if enhancement is granted @10% p.a."

5. It be noted that in the instant cases, I am concerned with a notification dated 6.2.2003 which is 50 days after the notification dated 17.12.2002, which was discussed by the Division Bench in para 49 of its decision, relevant extract whereof is reproduced herein above.

6. A perusal of the decision of the Division Bench would reveal that in para 42, pertaining to the notification dated 16.11.1995 it had determined the rate ₹2,15,160/- per bigha and applied 12% enhancement per annum, in para 45, with

reference to the date 16.11.1995 and the figure of ₹2,15,160/- stood enhanced to ₹2,35,815/- pertaining to a notification dated 11.6.1996.

7. It is thus apparent that in the relevant extract of para 49, hereinabove extracted, there is an obvious typographic error. If in the second line extracted herein above, the figure has to be ₹2,35,815/-, then the date in the 4th line has to be 11.6.1996 and not 17.11.1995. Vice versa, if the date in the 4th line has to be taken as 17.11.1995, the sum in second line has to be taken at ₹2,15,160/-.

8. The error by the Division Bench has resulted, it is apparent, in a higher sum being worked out at ₹4,02,850/- per bigha and for which I am told necessary applications seeking review/correction have been filed before the Division Bench.

9. The Division Bench would obviously do the necessary correction, however, as far as this Court is concerned, it is the reasoning which is relevant and not computation thereof.

10. The reasoning of the Division Bench would be that as of 17.11.1995 the market value assessed would be ₹2,15,160/- per bigha and the same would stand enhanced to ₹2,35,815/- per bigha as of 11.6.1996.

11. The further reasoning of the Division Bench which binds this Court would be the finding that there was initially a steeper percentage rise in the value of the land which subsequently fell. The Division Bench held that till the year 1996 the increase was 12% per annum and thereafter it was 10% per annum.

12. If I was to apply the aforesaid logic of the Division Bench, which binds me, treating the fair compensation assessed at

₹2,35,815/- per bigha as of 11.6.1996 or conversely taking the figure to be ₹2,15,160/- as of 17.11.1995, compensation as of 6.2.2003 would require to be worked out in view of the percentage increase held admissible by the Division Bench.

13. If I assess the compensation with respect to the date 17.11.1995, I will have to take the base figure of ₹2,15,160/- and enhance it by 12% for one year and thereafter 10% per annum. If I take the figure of ₹2,35,815/- the base date would be 11.6.1996 and thereafter the percentage increase would be 10% per annum.

14. I prefer to adopt the latter date i.e. 11.6.1996 and hence the higher sum of ₹2,35,815/- per bigha.

15. Learned counsel for the appellants would urge that the Government of Delhi, from time to time, enhanced the minimum rate of compensation which it offered to pay upon land being acquired and the same evidences that between the year 2001 till the year 2008, the percentage increase per year was 16%.

16. Learned counsel further submits that the reduction in the incremental value of the land from 12% per annum to 10% per annum determined by the Division Bench, with respect to the notification dated 17.12.2002 has to be appreciated with reference to the sale deeds pertaining to village Tikri Kalan, and discussion of the Division Bench shows that post 1996, in village Tikri Kalan, the percentage increase had come down vis-a-vis the previous sale deeds; and whereas in the past the increase was 12%, post 1996 it came down to 10%. Counsel seeks to urge that as regards village Ghewra there was no such evidence.

17. The pleas by learned counsel for the appellants are rejected for the reason the Government of Delhi issues the notifications pertaining to the minimum rate it would pay and these rates apply to all agricultural lands in Delhi irrespective of the situation, potentiality etc. The appellants are not seeking the rate as offered by the Government and thus cannot say that discarding the rates, the percentage increase offered by the Government should bind the Government. As regards the second plea, we see no reasoning in the Division Bench judgment as is projected by learned counsel that the Division Bench found that in village Tikri Kalan the percentage increase in land price post 1996 came down to 10% per annum and not in village Ghewra. In fact the decision would show that the Division Bench treated lands in the two villages at par.

18. Thus, with respect to the price ₹2,35,815/- per bigha as of 11.6.1996 and giving 10% increase per annum the fair market value of the land of the appellants works out to ₹4,03,425/- per bigha and thus we dispose of the appeals enhancing the compensation payable to the appellants to ₹4,03,425/- per bigha. We further decree that the appellants would be entitled to solatium and interest as per statute and as clarified in the decision reported as 93 (2001) DLT 569 Sunder vs. UOI.

19. Proportionate costs are also awarded.

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20. All pending applications stand disposed of in terms of the prayers made therein and cross objections, if any, filed by Union of India are dismissed.

June 2, 2011
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PRADEEP NANDRAJOG, J.