

1
\$~25

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LA.APP. 709/2011

LATIFUM

..... Appellant

Through: Mr. Akshay Ringe, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Advocate for R-1/UOI
Mr. Arun Birbal, Advocate for R-2/DDA

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

23.11.2011

CM No.21188/2011 (u/S 151 CPC)

1. There is delay of 1359 days in filing of the accompanying appeal against the order of 12.08.2007, whereby Reference Court had dismissed appellant's reference for want of evidence, as no one had appeared on behalf of the appellant before the Reference Court.
2. On 05.10.2007 appellant had filed an application before the Reference Court seeking review of the order of 21.08.2007 contending that the appellant had not received any summons from the Reference Court. Impugned order of 06.08.2011 rejecting appellant's contention of not being served with the summons, is not being seriously challenged and therefore,

LA.APP 709/2011

Page 1

Signature Not Verified

Digitally Signed By: A. JULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

this application has been filed to condone the delay while calculating it from the date of order of 21.08.2007.

3. Notice.

4. Mr. Sanjay Kumar Pathak and Mr. Arun Birbal, Advocates, accept notice on behalf of respondent No.1/UOI and respondent No.2/DDA respectively.

5. Learned counsel for the appellant states that now the appellant is aged about 84 years and the delay occasioned is explainable, as she had been diligently pursuing her remedy by filing of review/recall application before the Reference Court itself.

6. The opposition to this application by respondents' counsel is on the ground that the since the delay of 1359 days is inordinate, therefore, in any case appellant would not be entitled to the interest/costs for the said period.

7. Since the appellant had been bonafidely prosecuting the remedy before the Reference Court, therefore, in the peculiar facts and circumstances of this case, the inordinate delay of 1359 days in filing the accompanying appeal is condoned.

8. The application stands disposed of.

LA.APP. 709/2011

1. This appeal is directed against the order of 21.08.2007 vide which the Reference Court has dismissed appellant's reference for want of evidence as well as against order of 01.08.2011, vide which appellant's application for review/recall has been dismissed.

2. Learned counsel for the appellant could not advance any meaningful

8

arguments as far as the impugned order of 01.08.2011 is concerned, as it is clearly recorded in the said order that the appellant admits her thumb impression, upon the service report on summons served upon her. So far as appeal against the order of 21.08.2007 is concerned, I find that without going into the aspect of appellant being at fault or not in pursuing her reference, appropriate course would be to find out as to whether fair compensation has been awarded to the appellant for the acquired land pertaining to Village- Rajpur Kalan, Delhi, wherein acquisition had taken place in pursuance to the Notification of 27.01.2003, under Section 4 of the Land Acquisition Act, 1894.

3. Upon Notice, learned counsel for respondent No.1/UOI informs this Court that the subject matter of this appeal already stands covered by the decision of this Court in LA APP.266/2008, titled as '**Jai Singh Vs. UOI & Another**', rendered on 23.8.2011, which had dealt with the Notification in question of the acquired land of this very village.

4. The Notification under Section 4 of Land Acquisition Act, 1894 in the instant appeal is of 27.01.2003 and this appeal pertains to Village Rajpur Kalan, New Delhi and while dealing with this very Notification, this Court in **Jai Singh (supra)**, in respect of this Village has awarded the compensation for 'C' category land at ₹18,47,539.68 per acre and the operative part of the decision rendered in **Jai Singh (supra)** reads as under:-

"Village Rajapur Kalan Notification dated 27.1.2003

97. *For parity of reasoning as per para 96 above pertaining to village Sanoth, similar corrective action is to be*

required pertaining to lands acquired pursuant to notification dated 27.1.2003 relating to village Rajapur Kalan and where I find that the learned Reference Court has in some cases awarded compensation in sum of ₹19,13,765/- per acre and in some cases at ₹19,16,040/- per acre by treating all lands of uniform category. On the mean average basis which I have been following by increasing the price as of 1.4.2001 with reference to the notification issued by the Government as also by increasing the same with reference to the sale deed dated 20.5.2002 and taking the mean average, for Category 'A' lands the price comes to ₹19,43,500/- per acre and for Category 'B' land the price comes to ₹18,94,912.50 per acre and for Category 'C' lands the price comes to ₹18,47,539.68 per acre. Thus such appeals or cross objections which have been filed by land owners the same have to be dismissed in so far they pertain to Category 'B' and Category 'C' lands and similar would be the fate of appeals and cross objections filed by Union of India pertaining to Category 'A' lands. The said appeals and cross objections as per 'GRID-Q' are dismissed. Appeals and cross objections filed by land owners pertaining to Category 'A' lands are allowed by decreeing compensation payable in sum of ₹19,43,500/- per acre and needless to state on the enhanced compensation statutory benefits as per the Land Acquisition Act 1894 as interpreted in the judgment reported as Sunder Vs. UOI 2001 (93) DLT 569 shall be paid save and except in such appeals and cross objections where there is a delay, interest would not be paid for the period of delay. Proportionate costs as well. The appeals and cross objections filed by Union of India pertaining to Category 'B' and Category 'C' lands are allowed by modifying the relatable decree in the Reference Order by reducing the compensation for Category 'B' land to ₹18,94,912.50 per acre and for Category 'C' land to ₹18,47,539.68 per acre."

5. Undisputedly, this matter stands squarely covered by the aforesaid

5

decision of this Court and on parity basis, the appellant is granted compensation of ₹18,47,539.68 per acre for 'C' category land, with solatium etc., minus interest for the delayed period of 1359 days in terms of order of the Apex Court in *Surender vs. UOI*, 2001 (93) DLT 569. Accordingly, this appeal against the order of 01.08.2011 is dismissed while it is allowed in aforesaid terms against the order of 21.08.2007, with proportionate costs.


(SUNIL GAUR)
JUDGE

NOVEMBER 23, 2011

rs