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

+ LA.APP. 203/2012

UNION OF INDIA

..... Appellant

Through : Mr. Yeeshu Jain, Advocate.

versus

KELA & ANR.

..... Respondents

Through : Mr. Virendra Singh and
Mr. Sudhanshu Tomar,
Advocates for respondent no.1.
Mr. S.K. Sethi, Advocate for
respondent no.2.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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12.10.2012

CM No.13968/2012 (u/O 41 R 3A r/w Sec. 151 CPC & Section 5 of Limitation Act, 1963)

1. Impugned judgment of 27th January, 2011 assesses compensation @ ₹14,340/- per bigha for the land of village Mahipal Pur which was acquired in pursuance to Notification of 23rd January, 1965 under Section 4 of Land Acquisition Act, which is assailed by way of this appeal. Alongwith this appeal an application to seek condonation of delay of 396 days has been also filed, to which there is no serious opposition by learned counsel for the respondents and rightly so, because the reason for delay spelt out in paragraph no.4 of the application appears to be plausible one and is duly supported by affidavit of learned counsel for appellant. The reason for delay

disclosed is as under : -

"4. That it is humbly stated that inadvertently, the file of the present case got tagged with the other files in the office of the panel lawyer resultantly; the appeal could not be filed at its earliest. It is further stated that even though the appellant provided to the panel lawyer the proper court fee sometimes in the March 2012, but in the absence of the file being traced, the same could not be filed. It is humbly stated that in this process, the present appeal could not be filed within the period of limitation and there occurred the delay of 396 days in filing the same."

2. Finding that the delay occasioned stands sufficiently explained, the application is allowed and the delay is condoned.
3. CM is accordingly disposed of.

LA.APP. 203/2012

1. At the hearing of this appeal, learned counsel for the appellant had assailed the impugned judgment on the quantum of compensation assessed by contending that it erroneously relies upon order of 14th October, 1992 in LAC No.196/01/07 to assess the compensation in respect of the acquisition in question, through aforesaid order is premised upon a Division Bench decision of this Court in *Hoshiar Singh Vs. Union of India* 45 (1991) DLT (SN) 20.

2. Aforesaid decision in *Hoshiar Singh* (Supra) has been considered in a later decision of a Division Bench of this Court in RFA No.164/1978 *Pratap Singh Giani Vs. Union of India* rendered on 23rd August, 1995 wherein compensation assessed in respect of the acquisition in question is @ ₹3,000/- per bigha and so it is contended that this appeal deserves to be allowed in the light of the decision in

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Pratap Singh Giani (Supra) followed by this Court in RFA No.593/2000 *Narain Singh (Deceased) through LRs & ors. Vs. Union of India & anr.* rendered on 2nd July, 2012.

3. Learned counsel for contesting respondent no.1 relies upon order of 14th August, 1991 in RFA No.207/1978 *Dr. Harish Chand & ors. Vs. Union of India* wherein compensation at par with *Hoshiar Singh* (supra) has been granted and also upon order of 3rd June, 2011 in LAA No.482/2009 *Union of India Vs. LO Ram (deceased) through LRs* wherein the decision in *Hoshiar Singh* (supra) has been followed to maintain compensation granted @ ₹14,340/- per bigha and so dismissal of this appeal is prayed for.

4. Upon consideration of aforementioned submissions, decisions cited, impugned judgment, it becomes apparent that the later decision of the Division Bench of this Court in *Pratap Singh Giani* (supra) holds the field, in which earlier decision in *Hoshiar Singh* (supra) has been duly considered and the compensation in respect of acquisition in question has been assessed @ ₹3,000/- per bigha.

5. In the aforesaid view of this matter, this appeal is allowed with costs and the compensation is reduced from ₹14,340/- per bigha to ₹3,000/- per bigha.

6. This appeal stands disposed of in aforesaid terms.


(SUNIL GAUR)
JUDGE

OCTOBER 12, 2012

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