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*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LA.APP. 262/2012

HARISH KUMAR & ORS.

..... Appellants

Through: Mr. Sanjay Aggarwal, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Sanjeev Sahay, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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16.10.2012

LA.APP No. 262/2012 & CM No.17960/2012 (u/O 41 R 5 r/w Sec. 151 CPC)

In proceedings under Section 30-31 of Land Acquisition Act, appellants were Interested Party No. 2 & 3 whereas contesting respondents were Interested Party No. 9 to 12 (*henceforth referred to as I.Ps*). Impugned judgment of 11th July, 2012 answers the reference seeking apportionment of compensation in favour of respondents/ I.P.No.9 to 12, which is under challenge in this appeal.

Learned counsel for appellants relies upon Section 123 of *The Transfer of Property Act, 1882* to assert that no mortgagee can become owner of the mortgaged property and as per the revenue record i.e. *Jamabandi* of the year 1986-87, respondents/ I.P.No. 9 to 12 have been shown to be mortgagers and so, grant of entire compensation to respondents/ I.P.No. 9 to 12 by the Reference Court is unsustainable.

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By:AMULYA

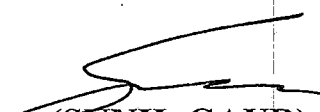
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Upon hearing learned counsel for appellants and on perusal of the impugned judgment and the material on record, it emerges that the *Jamabandi* of the year 1986-87 has to be read as a whole. Reference Court in the impugned judgment has considered aforesaid *Jamabandi* of the year 1986-87 in its entirety and has returned a categoric finding, which is as under :-

'In jamabandi for the year 1986-87 Ex. IP10/8 and Ex.IP2-8W3/1, it is mentioned that vide order dated 07.02.89 passed by Naib Tehsildar (North), the name of Mam Chand S/o Girdharli was corrected from "Rahim" i.e. "Mortgagor" to "Wahib" i.e. "donar".'

At the hearing, learned counsel for appellants had failed to assail aforesaid finding, which clearly shows that the status of 'mortgager' had changed to that of 'donor' and so, reliance placed upon Section 123 of *The Transfer of Property Act, 1882* is clearly misplaced.

Upon finding that there is no meaningful challenge to the impugned judgment, I dismiss this appeal and the application for interim relief in *limine*, with no order as to costs.


(SUNIL GAUR)
JUDGE

OCTOBER 16, 2012

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