

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

% Judgment delivered on: 18.01.2016

+ W.P.(C) 2196/2015

JEET SINGH AND ANR

.... Petitioners

versus

GNCT OF DELHI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Rajiv Kumar Ghawana

For the Respondent Nos. 1&2: Mr Yeeshu Jain with Ms Jyoti Tyagi

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. This writ petition has been filed seeking a direction to be issued to the Land Acquisition Collector to forward the reference under Section 18 of the Land Acquisition Act, 1894 to the court of the learned Additional District Judge. The said application is alleged to have been made under Section 18 in 2003 in respect of the supplementary Award No. 2/2003-04 made on 01.05.2003 in respect of lands belonging to the petitioners in Village Mundka.

2. The order / letter dated 03.01.2015 issued by the Naib Tehsildar on behalf of the Land Acquisition Collector (West) is impugned before us.

In the said letter it is stated that no record of the reference application under Section 18 said to have been filed in 2003 is available in the office of the Land Acquisition Collector. Even after the office searched the entire record, no entry was found regarding the receipt of the reference application under Section 18 and it is for this reason that the purported application could not be forwarded to the court of the concerned learned Additional District Judge. It was also indicated in the said letter that in the course of the enquiry, the concerned clerk Mrs Gurbir Kaur was also summoned but the office came to know that she had already passed away on 16.03.2007. The petitioners were required to furnish the correct diary number so that the officer of the Land Acquisition Collector would be in a position to isolate the said application.

3. The learned counsel for the petitioners submits that no diary number was given and, therefore, such a diary number could not be supplied to the office of the Land Acquisition Collector. It is contended by the learned counsel for the petitioners that the petitioners should not be punished for no fault on their part. If the record of the Section 18 application has gone missing in the office of the Land Acquisition Collector, the petitioners should not be penalised for the same.

4. The learned counsel for the respondent (Land Acquisition Collector) submitted that there is no evidence of the petitioners' having made an application under Section 18 for forwarding the reference to the learned Additional District Judge. The entire record has been searched and no such application was found in the record. The petitioners have produced the photocopy but there is no such document in the record. Therefore, the reference has not been forwarded.

5. The situation that emerges upon the rival contentions made by the learned counsel for the parties is that on the one side the petitioners alleged that they have made the application and, on the other, the respondents state that there is no record of the said application. There are two possibilities. The first possibility is that the petitioners had made the application and the same has gone missing in the records of the Land Acquisition Collector. The second possibility is that the petitioners never made such an application and only as an afterthought in 2014 they have sought to introduce this through applications dated 28.04.2014, 24.05.2014 and 30.05.2014. The learned counsel for the petitioners states that an earlier application was also made on 19.12.2011.

6. There is no way of finding out the truth of the matter except by looking at the circumstances and the conduct of the parties. If the

petitioners had made the application in 2003, why did they remain quite till 2011? The explanation sought to be offered by the learned counsel for the petitioners is set out in paragraph 13 of the petition which reads as under:-

“That subsequently writ petition W.P.(C) No.3193 of 2003 was filed by the petitioners challenging the award on the premise that the same was beyond time, which was dismissed by this Hon'ble Court vide order dated 1.8.2003 against which a review application was preferred and the said review application was also dismissed vide order dated 25.8.2003.

Against the said orders the petitioner had preferred Civil Appeal No.5195 -96 of 2004 and the said civil appeals were also dismissed by the Hon'ble Supreme Court vide order dated 15.9.2011. It is pertinent to mention that despite the supplementary award no. 2/2003-2004 mentioning the name of the petitioners as the persons entitled to compensation, the LAC malafidely referred a dispute under Section 30-31 of the Land Acquisition Act, to the court of concerned District Judge. The said proceedings were initially adjourned sine die and were finally disposed off on 1.5.2014. After dismissal of their Special Leave Petition, as the acquisition proceedings had attained finality, the petitioners filed an application dated 19.12.2011 before the respondent no.2 requesting to inform the status of their reference petition.”

7. It is also to be noted that in paragraph 12 of the writ petition, the petitioners stated as under:-

“That as the petitioners were not satisfied with the market value of the land assessed by the Collector, therefore the petitioners preferred a reference petition dated 2.6.2003 under Section 18 of the Land Acquisition Act, 1894, which was submitted on 12.6.2003 with the office of the respondent no.2 and was duly received by one Ms Gurbir Kaur who had

put her initials and the date of receipt in reference petition. Copy of the reference petition dated 2.6.2003 duly received on 12.6.2003 is annexed as Annexure P-1.

It is pertinent to mention that earlier application for payment certificate and TDS certificate were also received by Ms Gurbir Kaur by putting her initials on 29.5.2003 and pursuant to which payment certificate dated 30.9.2003 was also issued to the petitioners. Copy of the applications for payment certificate and TDS certificate are annexed as Annexure P-2 (Colly). Copy of the payment certificate and TDS certificate is annexed as Annexure P-3 (Colly).”

8. We may point out that in one of the letters written by the petitioners to the Land Acquisition Collector, namely, the letter dated 24.04.2014 it had been categorically stated by the petitioners that the application under Section 18 was duly received on 12.06.2003 by “Madam Kiran of your office” under her initials on that date. Thereafter the Land Acquisition Collector upon receipt of the said letter, respondent No. 2 issued notices to the officials who were on duty in the year 2003 and Ms Kiran appeared before respondent No. 2 on 07.10.2014 and denied having initialled the said document and informed that she was dealing with the accounts at the relevant time and that the alleged signature in the purported application did not belong to her. A copy of the explanation dated 07.10.2014 given by Ms Kiran is annexed as annexure R1 to the counter affidavit. It is further stated in the counter affidavit on behalf of the said respondent that upon coming to know about

the denial of the signature by Ms Kiran on the purported application, the petitioners immediately moved an application in writing on the spot on 07.10.2014 itself whereby the petitioners changed their version and said that the said application dated 02.06.2003 was given to Ms Kiran who passed the same to Ms Gurbir on 12.06.2003 and it is the latter who put her initials / signatures on the same. This statement clearly contradicts paragraph 12 of the petition where it has been categorically stated that the application has been given to Ms Gurbir. Therefore, the purported reason of the pendency of the appeal before the Supreme Court cannot be relied upon.

9. In these circumstances, we cannot accept the explanation given by the petitioners and, therefore, no interference is called for.

10. The writ petition is dismissed.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

JANUARY 18, 2016
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