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

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Date of Decision: December 8, 2016

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LA.APP. 126/2016

DARSHAN LAL ALIAS DARSHAN KUMAR Appellant

Through: Mr.L.B.Rai & Mr.Deokant Tripathi,
Advocates.

versus

GAON SABHA MUNDKA & ANR Respondents

Through: Mr.Siddharth Dutta, Advocate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

JUDGMENT (Oral)

1. This First Appeal under Section 54 of the Land Acquisition Act, 1894 is filed by the appellant Darshan Lal who was interested party No.2 before the learned ADJ in the proceedings under Section 30 & 31 of the Land Acquisition Act, 1894. Vide impugned judgment dated January 29, 2016 the claim of the appellant has been dismissed and the entire compensation amount of ₹5,36,530/- in respect of Khasra No.85/15/1min (1-1) has been ordered to be paid to interested party No.1 i.e. Gaon Sabha, Village Mundka.

2. The case of the appellant is that he purchased 1 Bigha 1 Biswas land out of Khasra No. 85/15/1min (1-1) 5/1min (1-1) from one Sh.Mahabir Prasad who was owner of the said agricultural land vide registered Sale Deed dated October 16, 1991. The physical possession of the above land from the date of purchase has remained with the appellant. The said land has been

acquired but compensation has wrongly been awarded in favour of Gaon Sabha, Mundka on the ground that the said land vested in Gaon Sabha. The appellant never received any notice of the proceedings under Section 81 of the Delhi Land Reform Act, 1954. Since he is the registered owner of the land in respect of which compensation of ₹5,36,530 has been assessed, it has been wrongly ordered to be paid by the learned ADJ to Gaon Sabha.

3. Gaon Sabha who was interested part No.1 before the learned ADJ filed the claim statement claiming its right on the compensation on account of the fact that the suit land vested in Gaon Sabha as per the revenue record.

4. Learned Trial Court settled the following issues on September 19, 2013:

“1. Which of the IP is entitled to the compensation amount in respect of the acquired land and to what an extend? OPP

2. Relief.”

5. Learned Trial Court considered the entries in the Revenue Record Ex.IP-1W-1/D1, affidavit Ex.IP-2W-1/A filed by the appellant/IP No.2, Sale Deed Ex.IP-2W-1/1 and held as under:

“11. IP No.2 Shri Darshan Lal claimed the ownership/Bhumidhar rights to land comprising in Khasra No.85/15 total 1 Bigha 1 Biswas situated within the revenue estate of Village Mundka on the basis of sale deed dated 16.10.1991 Ex.IP-2W-1/1. It was purchased from one Shri Mahabir Parshad. However, there is no document proved on record regarding the ownership/Bhumidhar rights of Shri Mahabir Prashad. No revenue record/Officer from revenue office examined to prove that Shri Mahabir Parshad was the owner of agricultural land in question from whom the land was purchased by IP No.2 Darshan Lal. A receipt filed by Mundka Udyog Nagar Association Ex.IP-2W-1/2. It has no bearing on the ownership of IP No.2 and alleged possession since 1991.

On the other hand, IP No.1 proved the Khatoni, the revenue record showing the rights of Gaon Sabha. IP No.2 has not examined any witness or documents produced contrary to the Khatoni of Gaon Sabha Ex.IP-2W-1/D1. Hence, in these circumstances, IP No.2 failed to prove the Bhumidar rights/ownership of the agricultural land comprising 1 Bigha 1 Biswas out of Khasra No.85/15. Hence, issue is decided against IP No.2 in favour of IP No.1.”

6. In addition to the oral submissions, the learned counsel for the parties have filed brief written synopsis.

7. Learned counsel for the appellant has submitted that in the cases where apart from Gaon Sabha private parties are also claimant, the practice of the Court had been to distribute the compensation in the ratio of 60:40. While referring to the decision of Division Bench of this Court, reported as **Raj Singh & Anr. Vs. Union of India & Anr.** 2009 (162) DLT 103, learned counsel for the appellant has submitted that the appellant may also be awarded compensation as held in the above judgment.

8. Reliance placed by learned counsel for the appellant in **Raj Singh's** case (Supra) is of no help to the appellant as in that case only on being satisfied about the title/claim of land owner, 60% compensation was awarded to the land owners and 40% to Gaon Sabha. The question that requires consideration in this case is whether the appellant could prove himself to be the owner of the suit property for which he is claiming entire or 60% compensation. The basis of the claim of the appellant is Sale Deed Ex.IP-2W-1/1 claimed to have been executed on October 16, 1991 by Sh.Mahabir Parshad, son of Shri Hira, resident of VPO Mundka, Delhi-110041 in favour of Darshan Lal, the appellant.

9. In the said Sale Deed Ex.IP-2W-1/1 the vendor has claimed himself to

be the owner/occupier/bhumidar and in possession of the land measuring 1 Bigha & 1 Biswas. No demarcation of that 1 Bigha 1 Biswas out of Khasra No. 85/15/1min (1-1), situated in the area of Village Mundka, Delhi-110041 has been mentioned in the Sale Deed. The Sale Deed also contains a covenant at Sr.No.6 which reads as under:

“6. That the Vendor and the vendee both have obtained the necessary no objection certificate from the tehsildar (Notification), Delhi.”

10. It is admitted case of the appellant that no record was summoned to prove that the vendor was a recorded Bhumidar of Khasra No. 85/15/1 min (1-1) or any ‘No Objection Certificate’ was applied for and granted in this case. Even the NOC number and date of issue of NOC are not mentioned in the sale deed.

Learned counsel for the appellant has contended that without ‘No Objection Certificate’ there could not have been any Sale Deed. The photocopy of the Sale Deed placed on record shows that though the vendor has been mentioned as Shri Mahabir Prasad, each page also bears the signature of Mahender Singh as well but struck out on each page. The revenue record produced by the Gaon Sabha, the respondent/IP-I established that the land vested in Gaon Sabha. Though the sale deed refers the name of Mahabir Prasad, each page is signed by Mahender Singh as well as vendor. However, name of Mahender Singh has been struck out by someone with no explanation as to why it was so done or by whom and at what stage. Even record from the office of Sub-Registrar was not summoned which could have explained as to who was the executants/vendor. Failure on the part of vendors/vendor to incorporate the details of revenue record on the strength of

which vendors/vendor claim/s title or when NOC was granted and its details being not mentioned in the sale deed, was sufficient to decline the claim of the appellant/IP No.2 to seek compensation. Mahabir Prasad could not have transferred any title to the appellant unless he himself has some title or interest in the said property and proved by the entries in the Revenue Record. As the appellant/interested party No.2 failed to bring on record any document/entry in the revenue record showing title of the vendor in any capacity, execution of any Sale Deed or filing of its copy on record would not entitle the appellant to seek his share in the compensation as land owner. Contrary to that, Gaon Sabha/respondent/IP No.1 has established from the entries Ex.IP1W1/D1 in the revenue record that the land vested in Gaon Sabha. Thus, the compensation has rightly been awarded to respondent - Gaon Sabha (Interested Party No.1).

11. The appeal is dismissed.

12. No cost.

CM No.19714/2016 (for stay)

The application is dismissed as infructuous.

PRATIBHA RANI, J.

DECEMBER 08, 2016

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