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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LA.APP. 914/2010 & CM Nos. 6718/2012 (U/o 41 R 22 CPC) &
6724/2012 (U/o 22 R 2 CPC)

GUNWATI DEVI Appellant
Through: Mr. Anand Yadav, Advocate.

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Sanjay Kumar Pathak, Ms. Kaomudi Kiran Pathak, Mr. Sunil Kumar Jha and Mr. Kushal Taj Tater, Advocates for R-1/UOI
Mr. Ankur Mahindro, Adv. for LR's of R6(i) to (iii).
Mr. Prasanta Varma, Sr. Central Govt. Counsel for R-1 and 7.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **02.09.2016**

1. This first appeal under Section 54 of the Land Acquisition Act, 1894 has been filed against the judgment of the Reference Court dated 19.7.2010, and which Reference Court was deciding proceedings under Section 30/31 of the Land Acquisition Act.
2. Counsel for the appellants as also of the respondent nos. 1 and 7 state that the Reference Court by the impugned judgment has decided the issue without framing an issue and without allowing parties to lead evidence with

the fact that the necessary party being the L&DO which is the owner of the land and which is respondent no.7 in this appeal was not even a party in the reference proceedings and which respondent no.7/Union of India through L&DO is prayed for being added as a party to the original reference proceedings.

3. Counsel for respondent nos. 1 and 7 states that in fact respondent nos. 1 and 7 have filed cross-objections/appeal against the impugned judgment for setting aside the impugned judgment.

3. Accordingly, since the impugned judgment decides the proceedings under Section 30/31 of the Land and Acquisition Act without impleading the necessary party being the Union of India through L&DO and also without framing of issues and leading of evidence, the impugned judgment dated 19.7.2010 is set aside by adding Union of India through L&DO as a party to the reference proceedings under Section 30/31 of the Land Acquisition Act.

4. I may note that the stand of the appellants is that the property was not re-entered but the stand of the respondent no.7/L&DO is that the property was re-entered and therefore none of the original lessees or their successors-in-interest would have any right to the compensation, however, I am not observing one way or the other on merits because this will be an issue to be

decided by the reference court in proceedings under Section 30/31 of the Land and Acquisition Act after framing of issues and leading of evidence by the parties.

5. In view of the above, the appeal is disposed of by setting aside the impugned judgment and remanding the matter to the trial court for decision in accordance with law in the reference proceedings under Section 30/31 of the Land and Acquisition Act.

6. The L&DO which is now added as a party to the reference proceedings will have a right to file its objections/claim in accordance with the directions to be passed by the trial court.

7. It is also noted that in view of the aforesaid order there is no need for any formal cross-objections of the respondent no.7 to be taken on record because the stand of the respondent no.7 of it being required to be made as a party to the reference proceedings has been allowed and issue as to entitlement of compensation of respective parties under Section 30/31 of the Land Acquisition Act will be decided by the trial court in accordance with law.

8. Parties to appear before the District and Sessions Judge, South West, Dwarka Courts, New Delhi on 18.10.2016 inasmuch as the impugned

judgment is passed by ADJ, South West, Dwarka, New Delhi. However, it is clarified that if the land which is the subject matter of reference lies in the jurisdiction of the District and Sessions Judge, South or Central, then this order will be treated as transferring the reference proceedings for decision to the competent court within the jurisdiction of District and Sessions Judge, South or Central, and the District and Sessions Judge, Dwarka will transmit the file to the concerned court having territorial jurisdiction.

VALMIKI J. MEHTA, J

SEPTEMBER 02, 2016

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