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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LA.APP. No. 268/2016

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3rd October, 2016

S. K. SHARMA

..... Appellant

Through: Mr. L.B. Rai and Mr. Mohit Kr. Sharma,
Advocates.

versus

GAON SABHA, MUNDKA & ANR.

..... Respondents

Through: Ms. Jyoti Tyagi, Advocate for Mr. Yeeshu
Jain, Advocate for R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

C.M. Appl. No. 36670/2016 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

LA.APP. No.268/2016 and C.M. Appl. No.36669/2016 (for stay u/S 151 CPC)

1. This first appeal under Section 54 of the Land Acquisition Act, 1894 is filed by the appellant, who was Interested Person no.2 in the Trial Court, against the impugned Judgment dated 5.7.2016 which has dismissed the claim of the appellant and allowed the claim of respondent no. 1/Gaon Sabha,

Mundka Village/I.P. no.1 with respect to compensation of Rs.3,22,484/- of acquired land falling in Khasra No. 16//3, Village Mundka, Delhi.

2. The case of the appellant/I.P. no. 2 was that he purchased the subject property in 12 biswas, i.e 600 sq. yards of land from one Sh. Ashok Sachdeva vide documents dated 11.1.1996 and Sh. Ashok Sachdeva himself had purchased the property from the recorded owners being the sons of Sh. Badle vide documents dated 21.9.1992. Accordingly, the appellant/I.P. no.2 prayed that the compensation be released to him and not to I.P. no. 1/Gaon Sabha.

3. After framing the sole issue on 16.9.2013 as to who was entitled to compensation, the trial court held that the appellant/I.P. no.2 was not entitled to compensation, but the respondent no. 1/Gaon Sabha/I.P. no.1 was entitled to compensation because the land is shown to be owned by Gaon Sabha in the khatoni for the year 2005-06 which was proved by respondent no. 1/I.P. no.1 before the trial court as Ex.IP1W/1. The issue no. 1 has been found in favour of respondent no. 1/I.P. no. 1 and against the appellant/I.P. no. 2 by the trial court by observing as under:-

“16. Issue No.1

IP No.1 Gram Sabha on the basis of testimony of IP1W/1 Sh. Rajesh Kumar, Halka Patwari proved the copy of Khatoni pertaining to year 2005-2006 Ex.IP1W/1 pertaining to the land in question i.e Khasra No.16//3 min (0-12) Village Mundka stands in the name of Gram Sabha in the Revenue Record.

17. IP No.2 examined IP2W1 Sh. S.K. Sharma who proved registered GPA Ex.IP2W1/1 dated 11.01.1996 executed by one Sh. Ashok Sachdeva in favour of IP No.2 and one rent agreement Ex.IP2W2/4 between IP No.2 Sh.

S.K. Sharma and one Sh. Chandewshwar Yadav dated 25.11.2003. No revenue record or document proved how Sh. Ashok Sachdeva became the owner and in possession of the land in question. Photocopies of GPA of one Sh. Dharam Bir Singh, Om Bir Singh and Ranbir Singh filed but no original proved on record. No revenue record filed which proves that the above said three person were the owners of the land in question and competent to transfer the land in question to Ashok Sachdeva. There is no Revenue record proved on record showing that IP No.2 ever entered his name in the Revenue Record after alleged transaction. On the other hand Gram Sabha has proved the Revenue record Ex.IP1W1/1.

18. On the basis of above observation and discussion IP No.2 failed to prove the ownership and possession of Khasra No.16//3 min (0-12). IP No.1 Gram Sabha established the ownership of possession till the acquisition, therefore, issue no.1 is decided in favour of IP No.1 Gram Sabha and against IP No.2, Sh. S.K. Sharma.”

4. I do not find any illegality in the judgment of the trial court because even if the appellant/I.P. no.2 had purchased the land from one Sh. Ashok Sachdeva and Sh. Ashok Sachdeva is claimed to have purchased the land from the sons of Sh. Badle, however, the fact of the matter is that the case of I.P. no. 1/respondent no. 1 herein was that the suit land vested in Gaon Sabha under Section 81 of the Delhi Land Reforms Act, 1954, and consequently, in the revenue record/khatoni for the year 2005-06 the suit land is shown as owned by respondent no. 1/I.P. no.1. Ownership of land, on the issue of vesting or otherwise under Section 81 of the Delhi Land Reforms Act, only becomes clear from the revenue record and it is seen that the appellant/I.P. no.2 led no evidence of the revenue record as to the suit land continuing to vest in his predecessors-in-interest and thereafter to the appellant/I.P. no.2 as per such revenue record, and therefore, the court below has rightly held that the suit land

is owned by respondent no.1/I.P. no.1/Gaon Sabha, and hence which is entitled to compensation with respect to the acquisition of the subject land. Appellant/I.P. no. 2 cannot be held to be the owner because appellant/I.P. no. 2 has failed to prove that his predecessors-in-interest by virtue of which revenue record were the owners, and how they continued to be the owners by reference to the revenue record, whereas on the contrary the respondent no.1/I.P. no.1 has shown its ownership by reference to the revenue record/khatoni, and which position would not have been so in case the appellant/I.P. no. 2 or his predecessors-in-interest were and continued to be shown as owners in the revenue record.

5. The appeal is accordingly dismissed in the above terms.

OCTOBER 03, 2016

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VALMIKI J. MEHTA, J