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

+ CM(M) 752/2015

KARN BHARDWAJ & ANR

..... Petitioners

Through Mr. Kirti Uppal, Sr. Advocate with
Mr. Bhuvan Gugnani and Mr. Amit Bhardwaj,
Advocates.

versus

UNION OF INDIA THR LAND ACQUISITION
COLLECTOR

..... Respondent

Through Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Advocate for R-1.
Mr. P. C. Yadav, Sr. Panel Counsel with Ms.
Shubhangini Yadav, Advocate for R-2/UOI

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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21.07.2016

1. By the present petition, the petitioners seek to impugn the order dated 01.05.2015 passed by the concerned court dismissing the application under Order I Rule 10 CPC filed by the petitioners. The petitioners are stated to be the owners of a portion of properties in Barakhamba Road. The portion of these properties was acquired by the respondents. This resulted in an award by the Land Acquisition Collector.

2. It is the contention of the petitioners that they are the members of the Indraprakash Apartment Occupants Association. This Association

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approached this court by a writ petition seeking enhancement of compensation. The Division Bench of this court vide judgment dated 16.01.2007 passed in W.P. (C) 10795-859/2006 titled as ***R.Prasad & Ors. vs. Govt. of NCT of Delhi & Ors.*** treated a communication addressed by the Association dated 14.07.2004 to the Land Acquisition Collector for enhancement of compensation as a request for a reference under Section 18 of the Land Acquisition Act. The Division Bench directed appropriate proceedings under Section 18 of the Act to commence accordingly. Pursuant to the said order, proceedings under Section 18 of the Act are continuing before the Additional District Judge, Delhi. The petitioners filed the present application under Order I Rule 10 CPC seeking impleadment in the said proceedings under Section 18 of the Act on the ground of parity with the Members of the Association.

3. Learned senior counsel appearing for the petitioners has relied upon the judgment of the Supreme Court in the case of ***Muthavalli of Sha Madhari Diwan Wakf S.J. Syed Zakrudeen & Anr. vs. Syed Zindasha & Ors., JT 2009 (5) SC 530*** to contend that this court can direct the application for impleadment to be allowed.

4. Learned counsel for the respondents has however relied upon the judgment of the Supreme Court in the case of ***Hari Prakash Aggarwal & Anr. vs. Gopi Kishan (dead through LRs) & Ors. in Civil Appeal No. 2799/2013 dated 14.04.2013*** to contend that the Land Acquisition Act 1894 is a self-contained Code and the person aggrieved by an award has to maintain an application before the Land Acquisition Collector for reference

under Section 18 and 30 of the Land Acquisition Act and cannot make an application for apportionment or impleadment before the reference court.

5. The judgment of the Supreme Court in the case of ***Muthavalli of Sha Madhari Diwan Wakf S.J. Syed Zakrudeen & Anr. vs. Syed Zindasha & Ors.(supra)*** does not help the case of the petitioner. Keeping in view the provisions of Section 18 of the Land Acquisition Act and the judgment of the Supreme Court in the case of ***Hari Prakash Aggarwal & Anr. vs. Gopi Kishan (dead through LRs) & Ors. (supra)***, it is obvious that the petitioners have to follow the provisions of the Act. It is hence appropriate that the petitioners approach the Land Acquisition Collector seeking a reference under Section 18 of the Act. Granting liberty to the petitioners to do the needful, the present petition stands disposed of.

6. It is clarified that as the petitioners have been contesting this application under Order I Rule 10 CPC for quite some time before the Additional District Judge and now before this court, the petitioners are at liberty to plead these facts and other circumstances of the case before the concerned Land Acquisition Collector to explain the delay in approaching the Land Acquisition Collector. These grounds appear to be genuine.

7. In case any such application is filed within three weeks from today, the Land Acquisition Collector is directed to deal with the same in accordance with law within two months from the date of the receipt of the application.

JAYANT NATH, J

JULY 21, 2016/rb
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