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

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Date of decision: 02.01.2017

+ **CM(M) 1383/2016**

BIMLA DEVI AND ANR

..... Petitioner

Through Mr.Raghuvinder Godara, Advocate

versus

UNION OF INDIA AND ANR

..... Respondent

Through Ms.Mrinalini Sen Gupta, Advocate
with Ms.Sarita Panda, Advocate for R-2/DDA

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (ORAL)

1. By the present petition under Article 227 of the Constitution of India the petitioners seek to impugn the order dated 26.11.2016 by which the application filed by the petitioners was dismissed.

2. The case of the petitioners is that certain properties owned by late Shri Lakhmi Chand were acquired by the Govt.of NCT of Delhi. The Award was passed on 9.12.2002. Same was enhanced by the High Court by order dated 12.1.2012. Shri Lakhmi Chand expired on 2.7.2012. Execution was filed seeking compensation. It was at this stage that some of the LRs of late Shri Lakhmi Chand propounded a will dated 4.6.2012 whereby no amount is payable to the petitioners. The executing court recorded the submissions of

the petitioners on 21.11.2013 stating that they do not make a claim of the compensation. Hence, the amount became payable to the other LRs of late Shri Lakhmi Chand other than the petitioners, who are noted as beneficiaries under the Will dated 4.6.2012. Now, the present application was filed by the petitioners claiming that the petitioners should be allowed to receive their share of compensation being LRs of late Shri Lakhmi Chand.

3. The trial court by the impugned order in view of the earlier statement recorded by the petitioners dismissed the application.

4. Learned counsel appearing for the petitioners has made several submissions to support his case including that when the statement was recorded on 21.11.2013, the Will of late Shri Lakhmi Chand in question dated 4.6.2012 was not exhibited, the petitioners never agreed to the Will, counsels appearing for the alleged beneficiaries of the will had also been appearing for all the parties and wrongly advised the petitioners to make the statement, they did not comprehend the contents of the will etc.

5. In my opinion, there is no merit in the contention of the petitioners. The petitioners are bound by the statements recorded in court. The statement of Smt.Mohar Kaur reads as follows:-

“AW-2 Statement of Smt.Mohar Kaur aged about 80 years s/o Late Sh.Lakhmi Chand R/o VPO Pochanpur, Delhi.

On S.A.

I am one of LRs of late Shri Lakhmi Chand (who was one of the decree holder in the above stated matter). I admit to the Will dated 04.06.2012 i.e. Mark A. I do not claim any right, title or interest in the amount of compensation to be assessed in my favour being the LR of Sh.Lakhmi Chand and relinquish the same in favour of Shri Baljit Singh (s/o Shri Lakhmi Chand), Sh.Jasbir Singh (s/o Sh.Lakhmi Chand), Ramwati (w/o

Sh.Krishan) and Smt.Mukesh (w/o Sh.Ranjit Singh) in equal shares. I am making the statement out of my free will without any force or pressure. Copy of my Aadhar Card is Ex.AW2/1 (OS&R). This is my true and correct statement.

-sd/-

RO&AC

(ALOK AGARWAL)
ADDL.DISTRICT JUDGE
DWARKA COURTS, NEW DELHI
21.11.2013”

A similar statement was made by the other petitioner.

6. In this context reference may be had to the judgment of this Court in ***Paul Properties Pvt. Ltd. & Anr. v. Estate Officer Life Insurance Corporation of India & Anr., LPA 298/2010 (MANU/DE/1511/2010)***, wherein this court held as follows:

“33. At this juncture, we think it appropriate to observe that on a keener scrutiny of the order of the proceedings before the learned Single Judge, it is clear that it is an unequivocal concession with regard to a finding of fact which has been arrived at by the Estate Officer. While the learned Single Judge was going to dismiss the writ petition, time was sought for and thereafter, concession was given. The concession of a counsel in a court of law has its own sacrosanctity. It is not the case where there was no consultation whatsoever. On a scrutiny of the entire gamut of the facts, it emerges with utmost clarity which can be envisioned that a maladroit attempt was made to take a somersault and wriggle out of the same. In case the same, if we allow ourselves to say so, is permitted, it will usher in a state of anarchy in the process of adjudication and the high tradition of the Bar and the acceptance of statements made at the Bar would be in jeopardy. The law does not countenance the same either in the expanse of substantive law or in the expansion of adjective law.”

7. In the light of the above judgment, in my opinion, the petitioners cannot be permitted to resile/back out from the assertions made in court. In

the present case the concession is made by the parties themselves.

8. In view of the above, there is no merit in the present petition. Same is dismissed. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

JANUARY 02, 2017

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