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

+ CM(M) 1128/2017

ASHOK KUMAR NARANG & ORS

..... Petitioners

Through: Mr. Varun Khera, Adv.

Versus

HARISH VIRMANI & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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13.10.2017

CM No.36751/2017 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CM(M) 1128/2017 & CM No.36750/2017 (for stay)

3. This petition under Article 227 of the Constitution of India impugns the orders dated 19th August, 2017 and 23rd September, 2017 in a proceeding under Sections 30 & 31 of the Land Acquisition Act, 1894 being LAC No.10/A/10 (New No.3/2016) of the Court of Additional District Judge (ADJ)-02 (West), Delhi.
4. Vide order dated 19th August, 2017, the application of the three petitioners, being IPs No.5, 35 & 24 before the Trial Court, opposing the affidavit filed by IPs No.1, 2 & 46 was dismissed.
5. Vide order dated 23rd September, 2017, the application of the petitioners objecting to the additional evidence beyond pleadings having been led by IPs No.1, 2 & 46 impleaded as respondents No.1 to 3 in this petition was dismissed.

6. In the order dated 23rd September, 2017, it has been reasoned that the objection of the evidence led being beyond pleadings can be raised at the stage of final arguments for which the proceedings have been posted on 14th October, 2017 and no application to discard the evidence led is maintainable.

7. No error is found in the reasoning contained in the order dated 23rd September, 2017. It will be open to the petitioners to, during the final arguments, make all the contentions.

8. The grievance of the counsel for the petitioners with respect to the order dated 19th August, 2017 is that certain documents have been taken on record and which are also beyond pleadings and the application filed by the respondents No.1 to 3 under Order VI Rule 17 of the Code of Civil Procedure, 1908 along with the said documents has not been allowed as yet.

9. It will be open to the petitioners to make the said arguments also during the final arguments.

10. The petition is dismissed.

11. At this stage, the counsel for the petitioners states that the petitioners have not been given an opportunity to cross-examine.

12. If the petitioners have any right, they will be entitled to apply to the Trial Court. For the first time, the said prayer cannot be made before this Court approached under Article 227 of the Constitution of India.

13. Dismissed.

Copy of this order be given *dasti* under signatures of Court Master.

RAJIV SAHAI ENDLAW, J.

OCTOBER 13, 2017/‘bs’..
CM(M) 1128/2017

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