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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11875/2015, C.M. APPL.31573/2015**

SHRI ASHOK VIRMANI Petitioner
Through : Sh. Munawwar Naseem and Dr.
Ranjana Kaul, Advocates.

versus

**DEPUTY COMMISSIONER (WEST), GOVT. OF NCT OF DELHI
& ANR.** Respondents

Through Sh. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates, for L&B/LAC, in Item No. 33.
Sh. Deepak Khosla, Advocate, for Respondent
No.3 in Item No.33
Sh. G.P. Thareja, Sh. Satyam Thareja and Sh.
Sushant Sharma, Advocates, for Respondent No.4,
in Item No.33.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE S.P.GARG

% **ORDER**
08.08.2017

The petitioner seeks a direction to the first respondent – Govt. of NCT of Delhi [hereafter “GNCTD”] to act upon his representation dated 13.10.2015 and issue a corrigendum to the list of interested persons and the LAC Award 10-A/2010/07, by including his name based upon the communication dated 30.12.2004.

The genesis of the dispute lies in the award dated 25.08.2006. The property which is the subject matter of the present writ petition is 69/6A, Najafgarh Road, New Delhi-15 [hereafter “the suit property”].

The petitioner claims the ownership of 1/3rd share of the suit property which became subject matter of acquisition and thereafter, determination of market value through the award in question.

The contesting respondents – i.e. Sh. Harish Virmani and Ms. Poonam Virmani, the brother and sister-in-law of the petitioner, however, dispute his ownership, submitting that through a series of transactions, i.e. GPA which culminated in a registered sale deed, sometime in 2002, his share was conveyed to the said respondents on 08.11.2004.

It is contended by the petitioner that the documents are forged and that he never intended to convey his share and his right and title to the said suit property.

It is a matter of record that the petitioner had filed a suit, being CS(OS) 3199/2015 initially before this Court which was subsequently transferred - on account of the reorganization of the pecuniary jurisdiction, to the Addl. District Judge (where it was renumbered as CS 82/2016). That suit was, however, dismissed as time-barred by a judgment and decree dated 04.06.2016. The petitioner, however, contends that his appeal against the said judgment is pending on the file of this Court.

It is contended that the release claim can still be granted by the Court since there are clear indications that fraud and forgery were practised against the petitioner. Learned counsel, therefore, contends that the petitioner's right to claim compensation should be acknowledged and his representation/claim in this regard should also

be considered by the LAC. The record would show that as of today, the petitioner's rights have not crystallised. In fact, he has received a setback by dismissal of his suit.

The Court, at the same time, notices that the suit was dismissed on the ground of limitation and not on merits. As on date, the petitioner's rights are clearly inchoate; at any rate, he cannot claim or assert any right in the suit property or a right to a share in the compensation. At the same time, his appeal is pending.

In these circumstances, to balance the rights and equities of the parties, the Court is of the opinion that the petitioner should be granted the right to move the Collector under Sections 30/31 (before whom the reference under Sections 30/31 is pending). The Court is also alive, however, to the eventuality of a final decision in the reference under Sections 30/31, in the meanwhile.

It was submitted by learned counsel for the respondents that there are 46 rival claimants to the compensation and that the proceedings before the Collector is likely to consume some time. Nevertheless, it is clarified that in the litigation *inter se* between the petitioner and contesting respondents pending pertaining to his entitlement to the 1/3rd share claimed by him but disputed by the other respondents in case determination under Sections 30/31 does take place in the meanwhile, the concerned reference Court is directed to forward a copy of the said decision under Sections 30/31 to the petitioner, i.e. Ashok Virmani - through his counsel – Sh. Munawwar

Naseem. The Appropriate Government is directed not to take any action on the final order of the reference Court for a period of four weeks after the pronouncement of the final order of the Reference Court. This is to enable the petitioner to secure his rights, if any, through appropriate proceedings.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

S.P.GARG, J

AUGUST 08, 2017/ajk