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

Decided on: 31st January, 2018

+ CM(M) 809/2016 and CM 30566/2016 and 30568/2016

VIRENDER SINGH & ORS Petitioners
Through: Mr. S.K. Rout, Mr. R. Godara and
Mr. Aman Mehrotra, Advocates

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Sanjay Kumar Pathak, Mrs. K.
Kaomudi Kiran Pahak, Mr. Sunil Kumar Jha
and Mr. Kushal Raj Tater, Advs. for R-1
Mr. B.S. Kharb, Adv. for R-2 to 6

+ CM(M) 153/2017 and CM 5051/2017

ANNU SINGH & ORS Petitioners
Through: Mr. B.R. Kaushik, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Sanjay Kumar Pathak, Mrs. K.
Kaomudi Kiran Pahak, Mr. Sunil Kumar Jha
and Mr. Kushal Raj Tater, Adv. for R-1
Mr. B.S. Kharb, Adv. for R-2 to 6

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The controversy which is subject matter of these two petitions arises out of an award of compensation that was passed in the wake of

acquisition of lands in which the parties herein claim interest in terms of the provisions of Land Acquisition Act, 1894 (since repealed).

2. The matter before the Land Acquisition Court presided over by Additional District Judge is at the stage of execution proceedings (Ex. 127/2014). It appears the said proceedings were taken out by Roshan, a person in whose favour compensation was awarded. Roshan concededly died on 09.11.1986. It is not disputed that an application under Order XXII Rule 3 of the Code of Civil Procedure, 1908 (CPC) was filed by his sons on which concededly some order was passed on 28.01.1992.

3. It is the case of the petitioners that Smt. Har Kaur, widow of Roshan Lal and his three daughters Ratni Devi, Omwati and Ram Piari had relinquished their respective shares and had executed some documents to that effect. While the proceedings were continuing on the application of the said three daughters, the Additional District Judge called for a verification report (LR verification report) which was considered on 03.10.2015. It appears the petitioners who had sought to take over the execution proceedings were not represented on that date before the concerned Court.

4. The Additional District Judge by order dated 03.10.2015 accepted the LR verification report and by directions to such effect, allowed the said three daughters to come on record as legal heirs also holding / observing that *“each one of them is entitled to compensation according to their shares”*.

5. The first captioned petition was filed challenging the above order dated 03.10.2015 on the averments that the impleadment of the

three daughters and the observation that they were entitled to share in the compensation was in the teeth of the order that had been passed on 28.01.1992 and also ignoring the fact that they had actually relinquished their respective rights in the compensation.

6. While the first above captioned petition was pending, the petitioners also moved an application for review under Section 114 of the CPC, registered as case no. M-85/2015 which was dismissed by the Additional District Judge by order dated 13.05.2016. Noticeably, in the said order dated 13.05.2016, the Additional District Judge observed that no order had been passed on the application under Order XXII Rule 3 of the CPC which had been submitted earlier presumably on 20.12.1986 before the Land Acquisition Collector. The Additional District Judge also observed that there has been no adjudication by any court as to who amongst the legal representatives of the deceased Roshan Lal is entitled to a share in the compensation and as to who amongst them is to be excluded. Yet, he dismissed the review application holding that there was no fault in the order dated 03.10.2015 adding that *“there has been no order of the court holding that the three daughters and widow of deceased Roshan Lal had relinquished their share of compensation in favour of three sons of Roshan Lal”*.

7. The dismissal of the review application by order dated 13.05.2016 has the effect that the order dated 03.10.2015 would stand and bind the parties.

8. Apparently, the approach of the Additional District Judge has been wholly mis-guided. If there has been no adjudication on the

application under Order XXII Rule 3 of the CPC filed in 1986 till date and if there has been no adjudication by any court as to which of the legal heirs of Roshan Lal is entitled to share in the compensation or on the issue as to whether the three daughters and widow of deceased Roshan Lal had or had not relinquished their share in the compensation, then there was no occasion for the Additional District Judge to direct by order dated 03.10.2015, that each of the daughters would be “*entitled to compensation according to their shares*”.

9. In view of the above, the impugned orders are set aside to the effect that while the three daughters would be allowed to be party to the proceedings in the execution case, the issue as to which of the legal heirs of Roshan Lal are entitled to share in compensation will be determined by the Additional District Judge in accordance with law.

10. The petitions and the applications filed therewith are disposed of with these directions.

JANUARY 31, 2018

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R.K.GAUBA, J.