

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on :29.11.2018

Date of decision :17.12.2018

L.A.APP 22/2015 & CM.No.240-242/2015

UNION OF INDIA

..... Appellant

Through: Mr. Yeeshu Jain, Advocate with
Ms.Jyoti Tyagi, Advocate.

versus

RAMESH KUMAR & ANR.

..... Respondents

Through: Mr. Kunal Sharma & Mr.
Shubhendu Bhattacharya,
Advocates for R-2/DDA.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

CM.No.241/15 (Condonation of delay)

1. Vide the present application, the appellant seeks condonation of 136 days delay in filing the appeal with the reasons set forth in the application which reads to the effect:-

“That it is submitted that the impugned judgment is dated 08.10.2013, the certified copy of which was received on 24.10.2013. The same was forwarded to the Deputy Legal Advisor for opinion, who on 23.12.2013 opined that the appeal should prefer against the impugned judgment. Afterwards, the file was put before the Principal Secretary for approval

which was sanctioned on 27.12.2013 and vide letter dated 17.1.2013, the same was referred to Naib Tehsildar/Patwari concerned for taking appropriate action at earliest. The file took little further time to reach the panel lawyer as the same was received in the month of February 2014 who prepared the draft appeal and send the same to the department for approval and verification.”,

which apparently do not suffice to show any sufficient cause having been satisfactorily explained in terms of the verdict of the Hon’ble Supreme Court in “*Esha Bhattacharjee Vs. Raghunathpur Nafar Academy*” (2013) 12 SCC 649 inasmuch as held in L.A.APP.223/2013 in “*Union of India Vs. Shashi Aggarwal & Anr.*” also, bureaucratic lethargy is not a ground sufficient enough to satisfactorily explain the delay in institution of the appeal.

Thus, the application is dismissed.

CM.No.242/15 (Condonation of delay)

2. Vide this application, the appellant seeks condonation of 156 days delay in refiling the appeal after removal of objections of making of deficiency in Court fee.

CM.APPL.No.241/2015 having been dismissed hereinabove, CM.APPL.No.242/2015 is consequently dismissed.

L.A.APP 22/2015 & CM.No.240/2015

3. As the application seeking condonation of delay has been dismissed, the appeal is dismissed as time barred, however, even on merits the appeal cannot succeed, taking into account the factum that the appellant i.e. Union of India vide the present appeal

L.A.APP.22/2015 assails the judgment and decree dated 08.10.2013 of the learned Additional District Judge-01, Rohini Courts, Delhi in LAC No.432-A/2012 qua award No.11/2002-03 whereby the reference under Section 18 of the Land Acquisition Act, 1894 filed by the respondent no.1 herein seeking enhancement of compensation of the acquired land mentioned in reference under Section 18A of the Land Acquisition Act, 1894, situated in the revenue estate of village Khera Kalan, Delhi measuring 1178 Bigha 7 Biswa at Khera Kalan which was acquired by the Government for public purposes namely "Rohini Residential Scheme" Phase IV & V with the petitioner being co-owner/bhumidar of ½ share of the land bearing khasra No. 501/15 (4-16) total measuring 4 Bighas and 16 Biswas situated in the revenue estate of Village Khera Kalan, Delhi with the notification under Section 4 of the Land Acquisition Act, 1894 having been issued on 27.10.1999 No.F.10(29)/96/L&B/LA/11394 and the declaration under Section 6 of the Land Acquisition Act, 1894 bearing No.F.10(29)/96/L&B/LA/20 having been made on 03.04.2000 with the award having been announced on 30.05.2002, whereby the Land Acquisition Collector determined the market price of the acquired land at Rs.12.16 lakhs per acre, was allowed and the respondent no.1 herein was held entitled to the reliefs of market value of the land at Rs.12,96,455.89/- per acre in terms of Section 19 of the Land Acquisition Act, 1894 apart from the additional amount under Section 23(1A) at the rate of 12% per annum of the market value from the date of notification under Section 4 of the Land Acquisition Act, 1894 till date of award or dispossession whichever was earlier and solatium

under Section 23(2) of the Land Acquisition Act, 1894 at the rate of 30% on the enhanced amount of compensation with interest under Section 28 of the said enactment at the rate of 9% per annum for the first year and 15% for the subsequent year till the making of payment of enhanced compensation awarded by the Court and by the Land Acquisition Collector.

4. The learned Reference Court based its finding on its own verdict in ***“Shashi Aggarwal & Anr. Vs. Union of India”*** in LAC 111A/09 which pertains to the same village with the same notification and same award by which the land of the petitioner was acquired and it was observed vide the impugned judgment dated 08.10.2013 in LAC 432-A/2012 that the judgment was based on the findings of this Court in ***“Hem Chander Malik Vs. Union of India”*** in LAC 358/2007 decided on 26.09.2011.

5. Through the appeal filed by the appellant, it was submitted that the verdict in ***“Shashi Aggarwal & Anr. Vs. Union of India”*** (supra) was to be assailed before this Court or before the Supreme Court and it is essential to observe that L.A.APP.223/2013 filed by the appellant in the said case against order in LAC 111A/2009 in ***“Shashi Aggarwal & Anr. Vs. Union of India”*** has been dismissed, it having been observed to the effect that the said order suffered from no infirmity or illegality as it granted compensation at par with compensation granted to similarly situated persons in LAC 358/2007 in the case ***“Hem Chander Malik Vs. Union of India”*** decided on 26.09.2011 by the Co-ordinate Bench of this Court.

6. There is thus no merit in the appeal. The present appeal **L.A.APP 22/2015** is dismissed. **CM.APPL. No.240/2015**, an application seeks a stay of the operation of the impugned judgment and decree dated 08.10.2013, which is also dismissed.

ANU MALHOTRA, J

DECEMBER 17, 2018/NC

