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

Decided on:- 20th April, 2018

+ CM(M) 1219/2013 and CM No. 17844/2013

AIRPORTS AUTHORITY OF INDIA Petitioner

Through: Mr. Digvijay Rai and Mr. Pulkit
Tyagi, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ORS

.... Respondents

Through: Mr. Arun Birbal, Mr. Sanjay
Singh and Mr. Ajay Birbal,
Advs. for DDA.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was the second defendant in the civil suit (suit no. 74/2007) which was instituted by the third respondent on 17.02.2007 seeking reliefs in the nature of declaration and injunction - mandatory and prohibitory. The first respondent was impleaded as the third defendant while the fourth respondent was shown in the array as the fourth defendant. The dispute between the said plaintiff and the fourth respondent (fourth defendant) concerned the claim for allotment of alternative plot in lieu of acquisition of lands comprised in Khasra No.1243 measuring 43 Sq. yards, New Delhi owned by one Kedar

Nath who had statedly died on 28.02.2001, the plaintiff claiming to be his successor-in-interest on the strength of Will dated 26.02.2001.

2. The plaintiff/third respondent and the fourth respondent, had jointly moved application under Order 23 Rule 3 of the Code of Civil Procedure, 1908, by informing the civil judge that they had amicably resolved the dispute. The said application resulted in final order passed in the said suit on 30.05.2011 by the Civil Judge (West) with a direction to the other defendants, particularly the petitioner, for allotment of the rehabilitation plot admeasuring 40 sq. meter in lieu of the acquired land. The present petition challenges the legality and propriety of the said final order.

3. It was fairly conceded by the learned counsel arguing for the petitioner that there has been default and neglect on the part of the petitioner in pursuing its interest, the proceedings in the civil suit having been suffered in absence and therefore *ex parte*, though the explanation is merely that “*track was lost of the case*”. Be that as it may, the prime contention is that there is an error in the impugned order/judgment, reference being made, *inter alia*, to various orders in certain previous proceedings arising out of the acquisition of lands in village Nangal Dewat including judgment dated 18.05.2005 in writ petition (Civil) No. 481/1982 titled *Daryao Singh Vs. Union of India and Ors.*; judgment of a learned single Judge dated 30.05.2007 reported as *Airports Authoriy of India vs. Karan Singh & Ors.*, 141 (2007) DLT 277; order dated 31.07.2007 in CM(M) 564/2007; and order dated 15.07.2013 in writ petition (civil) No.340/2013 as upheld

by a division bench by order dated 26.08.2013 in LPA 613/2013 besides order dated 01.12.2008 in CM (M) No.1066/2007.

4. After some hearing, learned counsel for the third respondent, the prime contesting party, he being the plaintiff of the suit in which the impugned order was passed, fairly conceded that given the directions in the previous matters as referred to above, the civil suit could and should not have been decided or disposed of by the Civil Judge in the manner done and that against the above backdrop the impugned order must be set aside. He at the same time requested that the proceedings in the civil suit may be revived and further that the matter may be withdrawn from the Court of Civil Judge and transferred to the original side of this Court so that it may be tried along with other similarly placed cases already pending.

5. Thus, the impugned order dated 30.05.2011 passed on the file of suit No. 74/2007 by the Civil Judge is set aside. The proceedings in the said civil suit of the third respondent stand revived. The civil suit is withdrawn from the court of Civil Judge and transferred to the original side of this Court to be listed on 16th May, 2018, before the appropriate roster bench, for further proceedings in accordance with law.

6. The registry shall take necessary steps to have the file of the civil suit requisitioned and placed before the appropriate roster bench on the said date.

7. The petition and the applications filed therewith stand disposed of in above terms.

R.K.GAUBA, J

APRIL 20, 2018

uj

