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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 22nd February, 2018

+ CM(M) 1042/2016

SURJAN (DECEASED) THR LRS & ORS Petitioners

Through: Mr. Smriti Vashisht, Advocate with
Mr. Piyush Rayal, Advocate

versus

UNION OF INDIA & ANR Respondents

Through: Mr. Sanjay Kumar Pathak, Advocate
with Mrs. K. Kaomudi Kiran Pathak,
Mr. Sunil Kumar Jha, & Mr. Kushal
Raj Tater, Advs. for R-1
Mr. Pawan Mathur, Standing counsel
for DDA

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

JUDGMENT (ORAL)

1. The order under challenge was passed by the Additional District Judge, South-West (ADJ) on 23.05.2016 on the file registered as M.No.15178/16 on the application of the petitioner under Sections 151/152/153 of the Code of Civil Procedure, 1908 (CPC) for correction of the judgment and decree dated 03.03.2005 passed by the ADJ in proceedings arising out of reference under Section 18 of Land Acquisition Act, 1894. It appears that the matter in so far as the petitioner is concerned related to grant of compensation in respect of land acquired to the extent of 85 bigha 03 biswas. It is his grievance that compensation only for the land measuring 69 bigha 17 biswas has

been paid to him. His request is that the compensation for the remaining land measuring 11 bigha 13 biswas should also be included in the said judgment and decree dated 03.03.2005.

2. The learned ADJ dismissed the application observing that the Land Acquisition Collector (LAC) had not taken over the possession of the land measuring 11 bigha 13 biswas, referring in this context to lands comprised in khasra Nos.32/22, 39/2, 39/3, 39/8 and 39/1 in village Kakrola. The petitioner relies upon certificate dated 30.03.2005 which, *inter alia*, reveals that lands comprised in khasra Nos. 39/2 (2-9), 3(4-16) and 9(4-8) had been taken over by *Naib Tehsildar*, Land and Building Department in the office of LAC, South-West District, though possession of certain other lands mentioned in the note below the said certificate was not taken over. The impugned order does not reveal any reply having been taken from the LAC on this aspect.

3. In above view, the impugned order is set aside and the matter is remitted to the Additional District Judge who shall call for a clear report from the LAC concerned and make a fresh decision on the matter.

4. The parties shall appear before the learned ADJ on 5th April, 2018.

R.K.GAUBA, J

FEBRUARY 22, 2018/vk