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

+ LA.APP. 197/2018 and CM No.38843-45/2018

SATISH KUMAR SUDHIR TYAGI Appellant

Through: Mr.Sudhir Kumar Sharma, Advocate
versus

UNION OF INDIA & ORS Respondents

Through: Mr.Yeeshu Jain, Standing Counsel for
UIO/Land & Building for R-1
Mr.Mohit Aggarwal,Advocate for R-2
Mr.Deepak Khosla,Adv for R-3
Ms.Pooja Wason, Adv for R-5
None for Respondents No.4

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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13.12.2018

The present appeal has been filed by the appellant challenging the order dated 4.4.2018 of the Additional District Judge-01 (North) in LAC No.1644/2016 in the case titled as Union of India v. Gaon Sabha, Holambi Kalan & Others vide which it was ordered to the effect:

“20. Findings on issue No. 1 & 2:

1. IP 2 Virender would be entitled to 80% and IP 1 would be entitled to 20% of the compensation in respect of land of Khasra No.20/2 (1 bigha 1 biswa) and Khasra No.20/3 (3 bigha 12 biswas) out of the disputed land.

2. IP 4 Kumesh would be entitled to 80% and IP 1 would be entitled to 20% of the compensation in respect of land of Khasra No.25/20 (4 bigha 0 biswa), Khasra No. 25/24 (4 bigha 13 biswas) and Khasra No.24/25 (2bighas 8biswa) out of the disputed land.

21. The reference petition is answered.

22. District Nazir is directed to remit the awarded amount of the land to the entitled IPs in above terms as per above findings.

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24. District Nazir will distribute the amount as per above observation to the entitled IP after receiving the amount from concerned bank on completion of necessary formalities, filing of necessary documents etc.”

The said impugned judgment dated 4.4.2018 indicates that the said proceedings were on a reference made by the Land & Acquisition Collector under Section 30 & 31 of the Land Acquisition Act, 1894 in as much as it was a reference for deciding the disputes regarding apportionment of compensation awarded by the LAC vide award No. 15/2005-06 in respect of village Holambi Kalan and that the reference having been filed on 30.10.2006 with a cheque of Rs.83,46,696/- which was deposited in the bank and there were four interested persons as per the said impugned order which relates to the acquisition in relation to a tract of land measuring 1440 Bigha 4 Biswas of village Holambi Kalan which came under Government acquisition for development of Narela Bawana Phase-II with reference being confined to 15 Bigha 17 Biswas of land situated in Khasra No.18/25 (0-03), 20/2 (1-01), 20/3 (3-12), 25/20 min (4-00), 25/21 min (4-13), 24/25 min (2-8).

The IP No. 1 in the said case was the Gram Sabha Holambi Kalan which is arrayed as respondent No. 2 to the present appeal. Vide the impugned judgment as already adverted to herein above qua the apportionment of compensation it had been directed to the effect

that the Gram Sabha Holambi Kalan would get 20% of the compensation in respect of the land of Khasra No. 25/20 (4 bigha 0 biswas), Khasra No. 25/24 (4 bigha 13 biswa), Khasra No. 24/25 (2 bigha 8 biswa) out of the disputed land with 80% of the compensation granted to Kumesh arrayed as IP No.4 to the proceedings in LAC No.1644/2016 arrayed as respondent No.5 to the present appeal and 80% of the compensation amount in relation to the land at Khasra No. 20/2 (1 bigha 1 biswa), and Khasra No. 20/3 (3 bigha 12 biswa) out of the disputed land having been awarded to Sh. Virender Kumar arrayed as IP No.2 to the proceedings in LAC 1644/16 arrayed on record to the present appeal as the respondent No.3 with 20% being granted to the Gram Sabha Holambi Kalan.

The impugned verdict also indicates that IP-3 Sh. Vikas arrayed as respondent No.3 to LAC No. 1644/16 arrayed as respondent No. 4 to the present petition, was proceeded *ex parte* by the learned Reference Court on 13.12.2007.

The present appeal is filed by the appellant Mr.Satish Kumar Sudhir Tyagi S/o Late Sh. B. S. Tyagi, as resident of village Holambi Kalan registered as a voter in the Electoral Roll for the concerned Parliamentary Constituency who submits that thus in terms of Section 151 of the Delhi Land Reforms Act, he is a member of the Gram Sabha of Holambi Kalan and submits through the appeal that the Gram Sabha Holambi Kalan is the recorded owner of the land falling in Khasra Nos. 18/25 min (0-03), 20/2 (1-01), 20/3 (3-12), 25/20 min (4-00), 25/21 min (4-13) and 25/24 min (1-18) total measuring 15 Bighas and 17 biswas of village Holambi Kalan, Delhi.

It has been submitted further through the appeal that the respondents No. 3 and respondent No. 5 i.e., IP No. 2 and IP No.4 were never in possession of the land in question at any point of time and by tampering the Revenue Records and by playing fraud on the Courts, the respondents No. 3 and 5 were granted relief as per as per the impugned order and that the appellant is a social worker with support of fellow villagers, i.e., the residents of Holambi Kalan and to save the interest of the Gramsabha seeks to challenge the impugned judgment and decree and submits further that the entire compensation amount of Rs.83,46,696/- was deposited in the bank when the reference was filed on 30.10.2006 and that the entire amount belongs to the Gramsabha as the Gramsabha is the recorded owner of the land in question and was in possession of the said land when the same was acquired and taken into possession by the Government during the period between November and December,2005.

Inter alia through ground EE of the appeal it has been submitted that there is a racket of land grabbers and fraudulent persons to eat away the money which belongs to Gramsabha and to the individuals who were bhumidhars/owner of the land under acquisition in many villages in Delhi and thus seeks that public money cannot be allowed to be taken away by the interested parties No. 2 and 4 and thus seeks the setting aside of the impugned judgment and decree dated 4.4.2018 in LAC No. 1644/16 in the case titled as ***Union of India v. Gram Sabha, Holambi Kalan & Ors.***

The present proceedings are listed at item No.15 of the Cause-List for the day. Listed at serial No.7 for the day is LA APP No.

215/18 which has been filed by the Gram Sabha Holambi Kalan against the very same judgment dated 4.4.2018 of the learned ADJ-01 (North) in LAC No. 1644/16, vide which the Gram Sabha Holambi Kalan seeks the full and complete compensation to be awarded to it and seeks the setting aside of the impugned judgment dated 4.4.2018 of the learned ADJ in LAC No. 1644/2016 submitting *inter alia* to the effect that respondents No. 2 and 4 arrayed to the LA APP. No. 215/2018 filed by the Gram Sabha Holambi Kalan i.e., Sh. Virender and Kumesh who are arrayed as the respondents No.3 and 5 to LA APP 197/2018, cannot be allowed to usurp the public fund by playing a fraud. Through the said appeal in LA APP No.215/2018, it is also brought forth that there is a review application pending before the learned Additional District Judge in relation to the very same judgment qua which a submission is made on behalf of the appellant in LA No. 197/2018 that is the present appeal that the same is barred by the limitation qua which it is submitted on behalf of the appellant in LA No. 215/2018 that the said delay in filing the said review application seeking the setting aside of the order dated 4.4.2018 in LAC No. 1644/2016 has already been condoned and that the proceedings are now fixed on the said review application in LAC No. 1644/16 before the learned Additional District Judge on 19.12.2018.

A perusal of the proceedings dated 24.9.2018 and 1.10.2018 indicate that vide order dated 1.10.2018 notice of LA APP 197/2018 had been issued on the condition that on the respondent No.2, i.e., the Gram Sabha Holambi Kalan, through BDO (N/W), Alipur Delhi, preferring the appeal against the very same impugned verdict of the

Reference Court, the question of disposal of the present appeal LA APP No. 197/2018 as being infructuous would be considered.

It is thus urged on behalf of the respondent No.1 that in view of the proceedings dated 1.10.2018 and in view of the institution of LA 215/2018 by the Gram Sabha Holambi Kalan against the very same verdict of the learned Trial Court in LAC No. 1644/16, in terms of proceedings dated 1.10.2018, the present LA. App No. 197/18 be disposed of as having become infructuous. To similar effect are the submissions made on behalf of the respondent No.3 and on behalf of the respondent No.5 by the learned counsel present and also on behalf of the Gram Sabha Holambi Kalan represented through its learned counsel i.e. for the respondent No.2.

On behalf of the appellant it has been submitted that there has been a fraud perpetuated by the respondents No. 3 and 5 and thus seeks to pursue the LA APP No. 197/2018 submitting *inter alia* to the effect that it is not expected that the respondent No.2 would pursue LA APP 215/2018 effectively.

Taking into account the factum that notice of the LA APP No. 197/2018 had been issued on the condition that on institution of the appeal by the Gram Sabha Holambi Kalan the question of disposal of the same as being infructuous would be considered and taking into account the factum that such appeal LA APP 215/2018 has since been instituted by the Gram Sabha Holambi Kalan which has also filed an application seeking review of the impugned verdict qua which the delay in institution of the same as was submitted during course of proceedings dated 1.10.2018 has already been condoned with it

having been submitted on behalf of the respondent No.2 that the review application is pending before the learned Reference Court for the date 19.12.2018 coupled with the factum that the averments made in LA APP No. 215/18 filed by the Gram Sabha Holambi Kalan states specifically to the effect that there has been a fraud perpetrated by the respondents No. 2 and 4 arrayed therein, arrayed as respondents No. 3 and 5 to the LA APP No. 197/18 i.e. by Sh. Virender and Kumesh arrayed as IP No. 2 and 4 in the LAC proceedings, it is apparent that the proceedings in LA APP 197/2018 have to be disposed of as having become infructuous and the appeal LA APP No. 197/18 is thus disposed of as having become infructuous.

An apprehension was reiterated on behalf of the appellants that the appellant apprehends that the Gram Sabha Holambi Kalan would not be pursuing LA APP No. 215/2018 effectively qua the same it is essential to observe that the proceedings in Court are in open Court, the appellant herein, may assist the Gram Sabha Holambi Kalan, if required, during the proceedings whilst making legal submissions only.

The LA APP No. 197/2018 as observed herein above is disposed of as having become infructuous and hence the accompanying applications are disposed of as having become infructuous.

ANU MALHOTRA, J

DECEMBER 13, 2018/sv