

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on :29.11.2018

Date of decision :17.12.2018

L.A.APP 196/2018 & CM.No.38833-35/2018

UNION OF INDIA

..... Appellant

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

versus

VIJAY KUMAR AGARWAL & ANOTHER

..... Respondents

Through: Mr. Anirudh Sharma & Ms.
Shriya Chanda, Advocates for
DDA for R-2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

CM.No.38834/18 (Condonation of delay)

1. Vide the present application, the appellant seeks condonation of 59 days delay in filing the appeal. For the reasons explained in the application and in the interest of justice, the said delay is condoned.

The application is disposed of.

L.A.APP 196/2018 & CM.No.38833/2018

2. The appellant i.e. the Union of India vide the present appeal L.A.APP.196/2018 assails the judgment and decree dated 23.04.2018

of the learned Additional District Judge-01, Rohini Courts, Delhi in LAC No.567/16 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/ co-bhumidar of 1/9th share in the land bearing in Khasra no. 94/10 min, total area measuring 01 bigha 4 biswas in Village Khera Kalan situated within 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 by the Court and by the Land Acquisition Collector.

3. 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 23.04.2018 in LAC 567/2016 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.

4. 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.

5. There is thus no merit in the appeal. The present appeal

L.A.APP 196/2018 is dismissed. **CM APPL. 38833/2018**, an application seeks a stay of the operation of the impugned judgment/decreed dated 23.04.2018, which is dismissed as the amount due has not been deposited in terms of order dated 24.09.2018.

CM APPL. 38835/2018 (Extension of time)

6. This is an application filed on behalf of the appellant seeking extension of time in filing the Court fee with supporting affidavit. Deficiency in Court fee has not been made up by the appellant, which also necessitates the dismissal of the appeal, which as observed hereinabove has been dismissed.

ANU MALHOTRA, J

DECEMBER 17, 2018/NC