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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LA.APP. 212/2018 & CM APPL. 46119/2018
TILAK RAJ & ORS Appellant
Through Mr. M.C. Verma, Adv.

versus

UNION OF INDIA & ANR Respondent
Through Mr. Yeeshu Jain, Ms. Jyoti Tyagi,
Advs. for R1.
Mr. Parvinder Chauhan, Standing
Counsel for R2 (DUSIB).

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **13.12.2018**

The appellants vide the present appeal under Section 54 of the Land Acquisition Act, 1894 assails the impugned order dated 09.10.2007 of the learned ADJ, Tis Hazari Court, Delhi in LAC No. 187/2005 whereby the prayer made by the appellants herein seeking the enhancement in compensation in relation to the land acquired of Village Ghevra vide Award No. 6/2004-2005, was declined in as much as the appellants herein did not lead any evidence and their evidence was closed vide order dated 24.01.2007.

Through the present appeal, the appellants submit that in LA. APP No. 489/2008 which relates to the same village Ghevra and which relates to the same notification for acquisition under Section 4 of the Land Acquisition
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Act, 1894 bearing No. F.11(81)/2000/L&B/LA/18032 issued on 06.02.2003 which was followed by declaration under Section 6 of the said enactment bearing no. F.11(81)/2000/L&B/LA/1317 of the Land Acquisition Act, 1894 on 30.04.2003, with urgency provisions under Section 17(1) of the said enactment vide notification No.F.11(81)/2000/L&B/LA/1318 dated 30.04.2003 and that thereafter the LAC had proceeded to pronounce the Award No. 06/2004-05 and it has been submitted on behalf of the appellants that LAC had determined the market value of the land acquired vide Award @15,70,000/- per acre on the basis of the indicative price policy fixed by the government as applicable on 01.04.2001, which was assailed by the appellants thereafter before the learned Reference Court which as already observed above declined the prayer made by the appellants herein.

It has been submitted through the present appeal however that the market value of the similarly acquired land was fixed @Rs.3,61,100 per acre in case LAC 78/05 titled as ***Chiranji Lal Vs. Union of India & Ors.*** above that decided by LAC and that the said land owner Chiranji Lal not being satisfied with the market value fixed by the learned Reference Court filed LA Appeal No. 489/2008 which was decided by this Court on 02.06.2011 and the market value was further enhanced to @Rs.4,03,425/- per bigha. It has thus been submitted through the present appeal on behalf of the appellants that the appellants would suffer prejudice by the non enhancement of compensation in the instant case, which enhancement has already been granted at the market value @Rs.4,03,425/- per bigha in relation to the same village Ghevra.

The said aspect is not refuted on behalf of the respondents no. 1 & 2 by their learned counsel present.

Learned counsel for the respondent no. 1 has in fact placed on record copy of verdict dated 02.06.2011 of this Court in LA. APP 489/2008, LA. APP 1089/2008, LA. APP 1090/2008, LA. APP 1091/2008, LA. APP 1162/2008, LA. APP 1163/2008 and LA. APP 212/2011 whereby in relation to the land in village Ghevra to the same notification dated 06.02.2003 as in the instant case issued under Section 4 of the Land Acquisition Act, 1894, and taking into account the proceedings in LA. APP 193/2006 in ***Pratap Singh (Thru LRs) vs. UOI & Ors***, the market value of the land of the appellants in the said case, which relates to the same village Ghevra and same notification, had been assessed @ Rs.4,03,425/- per bigha and that the said appeals were disposed of enhancing the compensation payable to the appellants herein @ Rs.4,03,425/- per bigha with it having been directed that the appellants would be entitled to solatium and interest as per statute and as clarified in the decision in terms of the verdict titled as ***Sunder Vs. UOI, 93 (201) DLT 569*** with proportionate costs having been awarded.

However, it has been submitted on behalf of the respondent no. 1 that though the enhancement as prayed on behalf of the appellants may be granted taking into account that placed on record is CM APPL. 46119/2018 an application filed on behalf of the appellants seeking condonation of delay which as per the said application dated 28.09.2018 is stated to be of 4802 days for which it has been submitted on behalf of the appellants and not refuted on behalf of the respondents that the delay is in fact of 3916 days, it

has been submitted on behalf of the respondents that in the event of the prayer made by the appellants being allowed in terms of verdict of this Court in LA. APP 289/2017, LA. APP 290/2017 and LA. APP 291/2017 in relation to the CM APPL. No. 31855/2017, APPL. No. 31857/2017 & APPL. No. 31859/2017 respectively, which were the applications for condonation of delay in filing the said appeals, there were costs imposed to the tune of Rs.35,000/- in favour of the respondent no. 1 i.e. the Union of India *inter alia* and apart from the same it was also directed that the appellants would not be entitled to interest on the enhancement for the period of delay in filing the respective appeals and it has thus been submitted on behalf of the respondent no. 1 that the said interest be not awarded on the enhancement for the period of delay in filing the appeals and that also the costs be also imposed on the appellants.

On behalf of the appellants, the said submissions made on behalf of the respondent no. 1 are not refuted and it is submitted that the orders as in LA. APP 289/2017, LA. APP 290/2017 and LA. APP 291/2017 in relation to the CM APPL. No. 31855/2017, APPL. No. 31857/2017 & APPL. No. 31859/2017 respectively, be made.

On a consideration of the rival submissions and taking into account the reasons mentioned in the application CM APPL. 46119/2018 seeking condonation of delay which *inter alia* stated that the learned counsel for the appellants had also informed the appellants specifically when the appellants learnt of the enhancement of compensation in LA. APP 489/2008, LA. APP 1089/2008, LA. APP 1090/2008, LA. APP 1091/2008, LA. APP 1162/2008, LA. APP. 212/2018

LA. APP 1163/2008 and LA. APP 212/2011 that he had been unwell for a period of 10 years, in the facts and circumstances of the instant case and also taking into account the factum that the appellants would be gravely prejudiced if the prayer made by them seeking enhancement of compensation is not granted and taking into account the proceedings in LA. APP 289/2017, LA. APP 290/2017 and LA. APP 291/2017 in relation to the CM APPL. No. 31855/2017, APPL. No. 31857/2017 & APPL. No. 31859/2017 decided on 27.09.2018 by this Court, it is considered appropriate in the interest of justice to condone the delay of 3916 days in institution of the present appeal subject to the payment of costs of Rs.35,000/- by the appellants to the respondent no. 1, which be paid within a period of two weeks to the respondent no. 1 which be deposited in the Registry of this Court and it is further directed that the enhancement prayed by the appellants of compensation in relation to the land of the appellants acquired vide the notification under Section 4 & 6 read with urgency provisions under Section 17(1) of the Land Acquisition Act, 1894 is for land in Khasra No. 25/10/1 (0-08), 29/10/1 (1-12), 29/17 (2-04), 30/10/2 (3-9), 31/1/1 (0-14) total measuring 8 bighas 07 biswas situated in the revenue estate of village Ghevra, Delhi – 81. The compensation as fixed by the Land Acquisition Collector @15,70,000/- per acre is enhanced to @Rs.4,03,425/- per bigha in terms of the verdict of ***Chiranji Lal Vs. UOI & Anr. in LA. APP 489/2008*** and the statutory solatium is granted in terms of Section 23(1A) and Section 23(2) of the Land Acquisition Act, 1894 as also interest under Section 28 of the Land Acquisition Act, 1894. However, there would

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be no payment made of any interest for the period of delay in filing the appeals.

The decree is directed to be drawn up after the receipt of payment of costs of Rs.35,000/- by the appellants to the respondent no. 1 is placed on record.

The appeal and its accompanying applications are disposed of accordingly.

ANU MALHOTRA, J

DECEMBER 13, 2018/MK