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

+ LPA 713/2018

MAN SINGH

..... Appellant

Through: Mr. A.K. Padhy, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ANR Respondents

Through: Mr. Dhanesh Relan, SC for DDA

+ LPA 714/2018

BADRI PRASAD

..... Appellant

Through: Mr. A.K. Padhy, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ANR Respondents

Through: Mr. Dhanesh Relan, SC for DDA

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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18.12.2018

CM Nos.52805-52806/2018 (exemption) in LPA 713/2018

CM No.52809-52810/2018 (exemption) in LPA 714/2018

Allowed, subject to all just exceptions

CM No. 52803/2018 (delay in filing) in LPA 713/2018

CM No. 52807/2018 (delay in filing) in LPA 714/2018

For the reasons stated in the applications, delay in filing the appeals is condoned.

The applications are disposed of.

LPA 713/2018 & CM No. 52804/2018 (stay)

LPA 714/2018 & CM No. 52808/2018 (stay)

1. Seeking exception to orders dated 09.08.2018 passed by the Writ Court dismissing the writ petitions filed by the petitioners, these appeals have been filed under Clause 10 of the Letters Patent.

2. The petitioners filed the writ petitions and claimed their right to the land in question primarily on the ground that they were settled in the land by the British army. With the efflux of time, they were cultivating fodder initially for the military horses and thereafter for themselves and claimed their right to title over the land on adverse possession. The learned Writ Court examined the issue in detail and found that the petitioners were brought into the said land by the British army for cultivating the land but it was found that in the case of various other petitioners identically situated, on the basis of undertaking given, they were permitted some time and thereafter they were evicted from the land. The matter went to the Supreme Court and the Supreme Court also, vide order passed in the matters on 10.08.2018, refused to interfere into the matter and all petitions have been disposed of and in cases where undertaking, as granted in earlier writ petitions, were not granted, the Supreme Court has refused to interfere into the matter. The learned Writ Court has found that the petitioners are also identically situated like the set of petitioners who had given the undertaking and when eviction orders against similarly situated petitioners have been affirmed till the

Supreme Court disposes of the matter and granted time to vacate the premises, the petitioners are also entitled to similar treatment.

3. Keeping in view the fact that the petitioners have no right to the property in question as on date, no indulgence into the matter is called for. The question of adverse possession is a mixed question of law and fact and if the petitioners think that they have any right to claim their right of possession or title on the basis of adverse possession, they should resort to the remedy of filing a suit and seeking the aforesaid benefit. For the present, once we find that the land belongs to the Delhi Development Authority and appellants merely by paying land revenue cannot claim ownership or title of the land, indulgence into the matter in a manner which is not permissible under law cannot be made. Accordingly, we find no error in the order passed by the learned Writ Court warranting re-consideration.

4. In view of the aforesaid observations, the appeals are dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 18, 2018

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