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

+ LPA 33/2019, CM Nos. 2146-2150/2019

LAXMAN

..... Appellant

Through: Mr. A.K. Padhy and
Mr. S.R. Padhy, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ANR Respondents

Through:

AND

+ LPA 34/2019, CM Nos. 2151-2155/2019

JAGDISH & ORS

..... Appellants

Through: Mr. A.K. Padhy and
Mr. S.R. Padhy, Advs.

versus

DELHI DEVELOPMENT AUTHORITY & ANR Respondents

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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30.01.2019

CM Nos. 2148/2019 & 2149/2019 in LPA 33/2019 (for exemption)

CM Nos. 2153/2019 & 2154/2019 in LPA 34/2019 (for exemption)

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

CM No. 2146/2019 in LPA 33/2019 (for delay)

CM No. 2150/2019 in LPA 33/2019 (for delay)

These applications have been filed by the appellants seeking

condonation of 80 and 48 days delay respectively in filing the present appeals.

For the reasons stated in the applications, the delay in filing the present appeals are condoned, applications stand disposed of.

CM No. 2150/2019 in LPA 33/2019 (for delay)

CM No. 2155/2019 in LPA 34/2019 (for delay)

These applications have been filed by the appellants seeking condonation of 7 and 15 days delay respectively in re-filing the present appeals.

For the reasons stated in these applications, the delay in re-filing the present appeals are condoned, applications stand disposed of.

LPA 33/2019, CM No. 2147/2019 (for stay)

LPA 34/2019, CM No. 2152/2019 (for 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

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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.

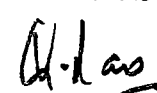
3. Keeping in view the fact that the petitioners have no right to the property in question as on date, no indulgence into the matter is called for. The question of adverse possession is a mixed question of law and fact and if the petitioners think that they have any right to claim their right of possession or title on the basis of adverse possession, they should resort to

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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. The appeals and connected application are dismissed.


CHIEF JUSTICE


V. KAMESWAR RAO, J

JANUARY 30, 2019/*aky*