

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

% Date of decision: 8th January, 2019

+ LPA 1/2019 & CM. Nos. 3/2019, 4/2019 and 5/2019

SOHAN PAL Appellant

**Through: Mr. Kamlesh Kumar Mishra and
Mr. Rahul Kumar, Advs.**

versus

D.D.A. Respondent

Through: Mr. Arjun Pant, Adv.

AND

+ LPA 2/2019 & CM. Nos. 26/2019, 27/2019 and 28/2019

BALJIT Appellant

**Through: Mr. Kamlesh Kumar Mishra and
Mr. Rahul Kumar, Advs.**

versus

**D. D. A. (DELHI DEVELOPMENT
AUTHORITY) Respondent**

**Through: Mr. Dhanesh Relan, Standing Counsel
with Ms. Komal Sorout, Adv.**

AND

+ LPA 3/2019 & CM. Nos. 29/2019, 30/2019 and 31/2019

MAHENDER SINGH Appellant

**Through: Mr. Kamlesh Kumar Mishra and
Mr. Rahul Kumar, Advs.**

versus

**D. D. A. (DELHI DEVELOPMENT
AUTHORITY) Respondent**

**Through: Mr. Dhanesh Relan, Standing Counsel
with Ms. Komal Sorout, Adv.**

AND

+ LPA 4/2019 & CM. Nos. 32/2019, 33/2019 and 34/2019

MADAN LAL Appellant

Through: Mr. Kamlesh Kumar Mishra and

Mr. Rahul Kumar, Advs.

versus

D. D. A. (DELHI DEVELOPMENT
AUTHORITY)

..... Respondent

Through: Mr. Dhanesh Relan, Standing Counsel
with Ms. Komal Sorout, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM. No. 5/2019 in LPA No. 1/2019

CM. No. 28/2019 in LPA No. 2/2019

CM. No. 31/2019 in LPA No. 3/2019

CM. No. 34/2019 in LPA No. 4/2019

Exemptions allowed subject to all just exception.

Applications stand disposed of.

CM. No. 4/2019 in LPA No. 1/2019

CM. No. 27/2019 in LPA No. 2/2019

CM. No. 30/2019 in LPA No. 3/2019

CM. No. 33/2019 in LPA No. 4/2019

These applications have been filed by the appellants seeking condonation of delay in filing the appeals. For the reasons stated in the applications delay in filing the appeals is condoned. Applications stand disposed of.

LPA 1/2019

LPA 2/2019

LPA 3/2019

LPA 4/2019

1. These four appeals have been filed by the appellants challenging common orders dated 9th August, 2018 and 9th September, 2018 passed by the learned Single Judge in four different writ petitions being W.P.(C) Nos. 9222/2017 (filed by appellant Sohan Pal), W.P.(C) 10574/2017 (filed by

appellant Madan Lal) and W.P.(C) 10582/2017 (filed by appellant Baljit) and W.P.(C) 10588/2017 (filed by appellant Mahender Singh) and in CM. No. 36623/2018 in W.P.(C)9222/2017, CM. No. 36728/2018 in W.P.(C) 10574/2018, CM. No. 36624/2018 in W.P.(C) 10582/2017 and CM. No. 36625/2018 in W.P.(C) 10588/2017, whereby the learned Single Judge has dismissed the writ petitions and also dismissed the applications of the appellants for modification of order dated 9th August, 2018.

2. The only submission made by Mr. Kamlesh Kumar Mishra, learned counsel appearing for the appellants is that order dated 9th August, 2018 came to be passed in the presence of Mr. Sanjay Baniwal, Advocate who was the proxy counsel for him. His appearance was only to seek a pass over. He also states that the modification applications were primarily filed by the appellants to contend that they are ready to file an undertaking that they shall vacate the property in question by 31st December, 2019 in terms of the order of the Supreme Court in SLP No. 5253/2018 dated 20th March, 2018. Mr. Mishra states, the ld. Single Judge should have allowed the CMs. as no prejudice is going to be caused to the respondents if the appellants are allowed to vacate the properties by that date.

3. Mr. Dhanesh Relan, learned standing counsel appearing for the respondent / DDA opposes the prayer on the ground that in a subsequent

order dated 10th August, 2018, the Supreme Court on noting that the petitioners therein have not sought for any time to file their undertakings till that date had recalled the order dated 20th March, 2018 (referred above). Similarly in these writ petitions also a categorical stand was taken by the learned counsel for the appellants that they do not want to withdraw the petitions and also do not want to avail the time to vacate the premises as has been granted to other persons similarly placed. The writ petitions were heard. According to him, it was this conduct of the appellants which was noted by the learned Single Judge while rejecting the applications. He states no indulgence should be shown to the appellants.

4. Having considered the rival pleas taken by the learned counsel for the parties and on perusal of the orders passed by the Supreme Court wherein in the order dated 10th August, 2018, the Supreme Court has noted that the petitioners therein have not asked for further time to vacate the properties till that date had recalled the order dated 20th March, 2018 qua those petitioners. In the case in hand, even assuming that the appellants have expressed themselves that they have no desire to give an undertaking but in the applications filed subsequently, they have expressed themselves for filing an undertaking to vacate the properties by 31st December, 2019, their prayer should have been granted. We are of the view that on the appellants filing an

undertaking before this court within one week from today (by giving a copy to Mr. Relan) that they shall vacate the properties on or before 31st December, 2019, they shall be allowed to continue. It is made clear that this order is passed with respect to the appellants before this court and shall not enure to the benefit of any other person. It is also made clear that if undertakings are not filed within one week from the date of receipt of the copy of the order, then the said undertaking shall not be taken on record and this order shall be deemed to have been vacated.

The appeals are disposed of.

CM. No. 3/2019 in LPA No. 1/2019

CM. No. 26/2019 in LPA No. 2/2019

CM. No. 29/2019 in LPA No. 3/2019

CM. No. 32/2019 in LPA No. 4/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

CHIEF JUSTICE

JANUARY 08, 2019/jg