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

Date of decision: 02.08.2019

\+ W.P.(C) 1456/2008 & CM APPLN. 9004/2018

NIMITAYA PROPERTIES LTD & ANR. ..... Petitioners
Through: Mr. Inder Bir Singh Alagh, Sr. Adv. with Mr. Sumit Gehlawat, Mr. T. S. Thakraon, Mr. Jaitegn Singh, Mr. Abhishek Bhardwaj and Ms. Neetu Singh, Advs.

versus

INDIAN OIL CORPORATION & ORS .... Respondents
Through: Mr. M. M. Kalara with Ms. Sonali Kumar, Advs. for IOCL
Ms. Sonia A. Menon, Adv. for R-2

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

CM APPLN. 52141/2018

1. Vide the present application, the applicants/petitioners seek direction thereby rejecting the Valuation Report dated 16.10.2018 filed by valuer 'M/s Kapoor & Associates' before this court on 22.10.2018.

2. Consequently, consider and rely the documents provided by both the parties to the valuer M/s Kapoor & Associates for assessment and

preparation of valuation report of the subject property and it should be re-assessed by this Court to arrive at a fair value of subject property.

3. It is pertinent to mention here that during the hearing of writ petition on 02.02.2018, after some arguments, the parties arrived at a resolution. Ms Meenakshi Arora, the learned senior counsel appearing for respondent no. 1 (lOCL) stated that the said respondent shall provide a list of four Government approved valuers and leave it for the Court to select one out of them. The valuer so appointed shall value the land in question (Tehsil Rajpura, Village Pehar Khurad, Distt: Patiala (Punjab), (admeasuring 13467.6 sq. yards) considering the same to be unencumbered and ignoring that an oil pipeline is running underneath a part of the land in question. Accordingly, liberty was granted to both the parties to provide copies of sale deeds relating to other properties in the vicinity of the area as well as other relevant material for the valuer to arrive at a fair valuation of the land in question. However, the parties were precluded from approaching the valuer in any other manner.

4. In view of above, the valuer was directed to submit his report to the parties and the valuation of the land in question as estimated by the valuer shall be binding on both the parties. The petitioners and the

IOCL/respondent no.1 had agreed that neither party shall raise objection to the valuation report.

5. In addition to above, the respondents were directed to make a payment of the fair value as ascertained by the valuer within a period of eight weeks from receipt of the valuation report and on the petitioners executing all necessary documents as desired by the respondents including the necessary sale deeds. The stamp duty for the same will be borne by the IOCL/respondent.

6. Accordingly, the interim order was vacated and the respondents were at liberty to enter the land in question forthwith.

7. For the aforesaid purpose, the matter was posted on 07.02.2018 for considering the appointment of the valuer.

8. Pursuant to the direction passed by this Court, the valuer submitted its report on 16.10.2018 stating therein that in compliance of the order of this court, a visit was made by us to the site and valuation was done on the basis of the information, documents and drawings supplied by the Owner and Indian Oil Corporation Ltd. The enquiries were made in the site's neighborhood from Real Estate agents etc. He received various documents sent by petitioners continuously, from the receipt of orders of valuation till

16-10-2018. The valuation report including site photographs were furnished along with the report.

9. Mr. Alagh, learned senior counsel for the petitioners/applicants submits that valuation report of the present property was to be submitted within six weeks from 21.08.2018, however, the valuer filed valuation report dated 16.10.2018 in the Registry of this Court only on 22.10.2018. The said valuation report came on the record only on 13.11.2018. However, no copy of the valuation report was supplied by the valuer to the petitioners despite directions in order dated 02.02.2018 passed by this Court and requests made by the petitioners to the valuer.

10. The petitioners also moved an application in this regard before this Court which was not followed in view of direction given in order dated 13.11.2018 to obtain the copy of report from Registry.

11. Learned senior counsel for the petitioners further submit that on perusal of the Valuation Report dated 16.10.2018 it becomes clear that the said valuation report is nowhere a 'fair valuation report' rather appears to be a Valuation Report prepared in an ultra casual manner. The said Valuation Report does not conform even the basics of any Valuation Report.

12. He further submits that vide order dated 02.02.2018 this Court observed that the parties have arrived at a resolution. On the basis of said resolution, this Court issued directions for fair valuation of the land in question to be prepared by valuer. Accordingly, the valuation report becomes highly important on which entire case and relief to the petitioners is based. The valuation report dated 16.10.2018 is full of gross mistakes and grave errors which are likely to cause injustice to the petitioners as this valuation report will decide the relief for the petitioners.

13. It is further submitted that the valuation report values the land in question for Rs. 5,43.00,000/-(Rupees Five Crore Forty Three Lacs Only) wherein the cost of land is taken,® Rs. 40,00,000/- per Bigha, for 13 Bigha & 6 Biswa. In the entire valuation report at no place any basis for this cost of land has been discussed as to how this figure appeared and based on which data, which was must for any person to arrive at a particular cost. This raises grave suspicion on the correctness, genuineness and veracity of the valuation report on which the fate of whole relief of the petitioners completely depends.

14. On perusal of the valuation report filed by the valuer, it is apparent that he has not discussed, while preparing the report, as to what was the base to arrive at the rate valued by the valuer. However, in his forwarding letter while submitting report, he has stated that his team visited to the site and the valuation report was prepared on the basis of the information, documents and drawings supplied by the owner and Indian Oil Corporation Ltd.

15. In addition to above, the enquiries were made by them from Real Estate Agent etc. It is further stated that they were in receipt of various documents sent by the petitioners continuously from the receipt of orders of valuation till 16.10.2018.

16. The applicants/petitioners has annexed the site plan of the properties under municipal corporation of Rajpura, District Patiala, Punjab. On perusal of the same, the property in question is five kilometers away from one property of Sh. Anil Sehgal and the rate of that property is ₹69247 per square yards. Another property is 4.5 kilometers away from Sh. Sukhbir Singh property and the rate of that property is ₹102439 per square yards. The other properties are farther away than the property mentioned above. There is no construction at all of the back side of the property or the other side of the property.

17. It is not in dispute that the property in question is on the main road which goes from Chandigarh to Patiala and from the said property, across the road is Prime Cinema Hub which is one kilometer away and rent in that property is ₹60 per square feet. Another property on the same direction and same distance is Village Shamdoo Seva Singh property and rate of that property is ₹62500 per square yards.

18. It is pertinent to mention here that these two properties mentioned above is across the road and one kilometer away from the property in question. Furthermore, on this side of the road where the said property is located, no construction is there, except 4.5 kilometer away is Sh.Sukhbir Singh's property and other properties are farther away than this property. Though the valuer has not mentioned details as to what documents he has used to come to the conclusion that rate of the property in question is ₹40 lacs per bigha, but the fact remains that petitioner have also not produced any sale deed of adjacent property and only relying upon the fact that property in question is within the municipality of Rajpura District Patiala, Punjab.

19. As per the report, Rajpura city is 2.5 kilometers away from the property in question. Therefore, the rate of the Rajpura city cannot be made

available to the applicants on the ground that the property in question is in the municipality, however, it is far away from the city and no construction at all near about the property in question.

20. Moreover, both parties agreed on 02.02.2018 that they shall accept the report of the valuer and not challenge the same.

21. Accordingly, the parties are bound to accept the same. However, I find no ground to pass any order in the present application while accepting the report of the valuer. Accordingly, the application is dismissed.

22. Since the valuation report has been submitted, therefore, the applicant/petitioners shall execute the documents in favour of the respondent company and on executing the documents in favour of the respondent, the respondent shall pay the value of the property as per the rate determined by the valuer.

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23. Since nothing remains in the writ petition, the petition is also disposed of.

24. Pending application, if any, stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

AUGUST 2, 2019/ms