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

*Date of decision: 7<sup>th</sup> January, 2020.*

+ **LA.APP. 1/2020 and CM APPL. 103/2020**

M/S PRABHU LAND & FINANCE

..... Appellant

Through: Mr. Inder Singh, Advocate (M: 9811012192).

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi, Advocates for R-1 (M: 9953021339).  
Ms. Mini Pushkarna, Standing Counsel, South DMC with Ms. Khushboo Nahar, Ms. Latika Malhotra and Ms. Swagata, Advocates for R-2 (M: 9810674872).

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J.(Oral)**

1. The present appeal challenges the impugned order of the Reference Court dated 31<sup>st</sup> March, 2016. The Id. ADJ has followed the judgment in the lead case i.e. *LA APP. 62/2013* titled *Balwant Singh vs. UOI & Anr.* and has granted compensation on the same terms. The relevant portions of the award are set out below:-

**“6.3 Issues no. 2 and 3 -**

*2. Whether the Reference is without cause of action, as the Award- No. 4J2003-04 dated 30.04.2003 reflects the actual and assessed market value of the land acquired? OPR-1*

*3. Whether the petitioner is entitled for enhanced compensation, as prayed? OPP*

*The onus to prove issue no. 2 lies on respondent no. 1 and onus to prove issue no.3 is on the petitioner, both*

*are taken together, since they are inter-connected and common discussion is needed. On the one side the petitioner is riot satisfied with the amount awarded in award Ex. R-1 and on the other side respondent no.1 opposed the claim that Land Acquisition Collector has awarded the amount after considering, location, potentiality to use the land as well as other relevant factors while determining the market value of land and other aspects.*

*Both the sides have their reservations, however, petitioner has also relied upon judgments to show value of similar situated lands, particularly of judgment (Ex. PW-1/2) in LA APP. no. 62/13 titled as Balwant . Singh vs. UOI & Anr. that in appeal the compensation was enhanced to Rs. 9,237.80 per sq. metre by the appellant court, which determines value of land of the same date of 16.10.2000 of notification in same Village and the same is to be considered for petitioner's land also. There is no contrary evidence by the respondents in this regard. Petitioner's land and of Balwant Singh were acquired under same notification. Thus, case of petitioner is to be treated on parity with Balwant Singh's case. Therefore, on 16.10.2000 the market value of land was Rs.9,23780 per sq. metre, whereas the market value determined by the Land Acquisition Collector was @ Rs. 13.84 lacs per bigha. To say, petitioner has succeeded to establish issue no.3 in his favour that market value of land was Rs. 9,237.80 per sq. metre on the date of preliminary notification and petitioner has also established issue no. 2 in his favour that he is entitled for enhanced compensation @ Rs. 9,237.80 per sq. metre. In view thereof, it is held that the respondents could not established issue no.2 in their favour and it is decided against them. Thus, the issue no. 2 and 3 are determined in favour of petitioner and against the respondents."*

2. The first hurdle for the ld. counsel for the Appellant is the fact that

there is enormous delay of more than 1200 days in filing of the present appeal. Ld. counsel submits that the reasons for the delay in filing the appeal was not intentional or deliberate. It is further submitted by ld. counsel that the lead case of **Balwant Singh** has been recently decided by the Supreme Court on 15<sup>th</sup> October, 2019 wherein the compensation has in fact been enhanced post the judgment of the High Court in the said matter.

3. Ld. counsels appearing for the LAC and SDMC submit that the delay is completely unexplained and the Appellant was well aware of the progress in the litigation in the **Balwant Singh** case. In any event, the judgment of this Court in the case of **Balwant Singh** was passed in 2016 and the Appellant ought to have appealed in time.

4. The Court has considered the rival submissions of the parties as also the record. The impugned judgement and decree dated 31<sup>st</sup> March, 2016 categorically follows the judgment in **Balwant Singh v. Union of India, LA APP. 62/2013**, which relates to the same village and the same award. The said order relied upon by the Reference Court having been modified by the Supreme Court in Civil Appeal 61/2018 on 15<sup>th</sup> October, 2019, there is no reason why the Appellant should not be treated on par with the other parties to the same award.

5. The order of the Supreme Court in **Balwant Singh** dated 15<sup>th</sup> October, 2019 reads as under: -

- 1. Heard learned counsel for the parties.*
- 2. This appeal takes exception to the judgment and order dated 11<sup>th</sup> January, 2016 passed by the High court of Delhi at New Delhi in L.A. Appl. No. 62 of 2013 whereby the appeal under Section 54 of the Land Acquisition Act, 1894 filed by the appellant for enhancement of compensation amount came to be*

*partly allowed.*

*3. The appellant has filed this appeal for further enhancement of compensation amount and being aggrieved by the approach adopted by the High court in deducting Certain amounts towards development costs despite having taken note of the fact that the location of the land in question was within the well developed vicinity. The High Court in paragraphs no.12/ 20 and 24 observed as under:*

*“12. XXX XXX XXX*

*From the statement of PW-2, Patwari, village Chhatarpur, it is evident that the acquired land is situated on the, main Chhatarpur Road. The acquired land is 2-2 kilometres away from Chhatarpur Mandir and Qutub Minar. Therefore, it is evident that the acquired had considered geographical advantage.*

*XXX XXX XXX*

*20. In the instant case, having regard to the extent that the land acquired which is situated in the Revenue Estate of Village Chhatarpur, Tehsil Hauz Khas and based on the relevant evidence placed on record, it could be said that the acquired land was an urban semi developed agricultural land. It is also evident that most of the basic amenities were available in the area at the time notification was passed. The land acquired demonstrably had a geographical advantage.*

*XXX XXX XXX*

*24. Considering the fact that the notified circle rate for residential land in the area in question in the year 2 000 was Rs.8,360/- per square meter and the fact that the said notified rates were subdued from the prevailing market rates by about 30% at the very least, I am of the view that the market rate for*

*residential lands in the area in question in the year 2000 would be Rs.10,868/- per sq.meters".*

*XXX XXX XXX.*

*4. Despite having recorded that finding, the High Court then provided for 15% deduction towards development of the plot and reduced the market value of the land from Rs.10,868/- per square meter to Rs.9,237.80 per square meter.*

*5. After considering the rival submissions, we are of the considered opinion that the High Court committed manifest error in providing deduction of 15% towards development of the plot in the fact situation of the present case, despite having clearly found that the subject land was within the well developed vicinity, as noted in the above quoted paragraphs of the impugned judgment.*

*5. As a result, the judgment and order to the extent of providing deduction of 15% from the assumed market rate of Rs.10,868/- per square meter is set aside. In which case, the appellant would be entitled for compensation at the rate of Rs.10,868/- per square meter.*

*6. The decree passed by the High court stands modified to this limited extent and the Executing Court may proceed on*

*that basis. It is made clear that rest of the decree passed by the High Court regarding statutory benefits and interest would remain intact.*

*7. The appeal and pending applications are disposed of in the above terms. No costs.*

6. In so far as the question of delay is concerned, the Id. counsels for the Respondents have raised a valid objection that the application is shorn of any explanation as to why the appeal could not be filed in time. However, considering the fact that the Supreme Court has modified the judgment in **Balwant Singh**, the matter being in respect of the same land and the same

award, the Appellant, cannot be treated differently. However, for the period of delay, the Appellant can be put to terms.

7. Accordingly, it is directed that the Appellant would be entitled to compensation in terms of the judgment of the Supreme Court @ Rs. 10,868/- per sq. metre. The impugned award would stand modified.

8. In the spirit of the principle of parity, it is deemed appropriate to condone the delay in preferring the appeal, subject to the Appellant paying costs of Rs.25,000/- to the ld. counsel for LAC and further subject to the condition that the appellant will not be entitled interest on the enhanced compensation for the period of delay.

**PRATHIBA M. SINGH**  
**JUDGE**

**JANUARY 07, 2020**  
**MR**