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

% **Date of decision: 14th December, 2020**

+ **W.P. (C) 8235/2019**

RAVI PAL SINGH AND ORS.Petitioners

Through: Mr. Narendra Sharma, Advocate

Versus

ADDITIONAL DIVISIONAL MAGISTRATE (ADM)Respondents

Through: Mr. Yeeshu Jain, Standing counsel
with Ms. Jyoti Tyagi, Advocates
for Respondent/LAC

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

1. The petitioners (i) Ravi Pal Singh, S/o Late Sewa Singh (ii) Jitender, S/o Late Harbans Singh (iii) Puneet, S/o Late Avtar Singh and (iv) Asha, W/o Late Avtar Singh, have filed this petition seeking mandamus to the respondent Land Acquisition Collector (LAC) to send the amended/corrected Reference, by impleading/including/adding the names of the remaining/all legal representatives of Late Sewa Singh, which were not included in the list of beneficiaries/interested parties, in the Reference sent by the respondent LAC to the District Court in Saket, New Delhi.

2. The petition came up before this Court first on 30th July, 2019, when the counsel for the respondent LAC appearing on advance notice took time to obtain instructions. Thereafter the matter was adjourned from time to time and on one of the dates, an opportunity also given for filing counter affidavit. On the functioning of the courts being affected by the prevalent Covid-19 pandemic, the petition was being adjourned for that reason. The petitioners filed CM No.28547/2020, for early hearing of the petition and which came up before this Bench on 10th November, 2020, when early hearing was allowed and noticing the limited relief claimed in the petition, we enquired from the counsel for the respondent LAC, why the petition should not be allowed immediately. However on request of counsel for the respondent LAC on 10th November, 2020, the petition was adjourned to today, with liberty to file counter affidavit, if required, in the interregnum. No counter affidavit has been filed.

3. The counsel for the respondent LAC states that she has been informed that the records are of the year 1972 and were sent to the LAC Reference Court at the District Court, Saket and are thus now not available with the respondent LAC. She suggests that the writ petition be ordered to be treated as a representation of the petitioners and be directed to be disposed of in a time bound manner.

4. We are however of the opinion that if the records are not available, the aforesaid course of action also will not serve any purpose and will only lead to contempt petitions, etc., and the proceedings before the LAC Reference Court in the reference already made, will also remain pending and will continue to show as arrears of that Court.

5. It is the case of the petitioners, (i) that Late Sewa Singh was the owner of land bearing Khasra No. 283 (1-11), 285 (0-9), 286 (0-9) total 2 bighas 9 biswas; (ii) the said land was acquired by the Government for the purpose of construction of Chattarpur Metro Station and Award was made in the years 2011 and 2012 vide Award No. 5/11-12; (iii) the award amount was to be distributed amongst legal heirs of Late Sewa Singh, as Sewa Singh expired on 23rd March, 1972, leaving seven children, namely Dilip Singh, Darshan Singh, Satpal Singh, Harbans Singh, Avtar, Ravipal Singh and Baljeet Kaur; (iv) at the time of preparation of the Award, all children of Late Sewa Singh except Ravi Pal Singh and Harbans Singh had also died; (v) the respondent LAC, in the Award, arrayed Ravinder Kaur as interested party no.1, Harbans as interested party no.2, Raminder Pal Singh as interested party no.3, Asha Sachdeva as interested party no.4, Surjit Kaur as interested party no. 5, Ravi Pal Singh as interested party no.6, Baljeet Kaur as interested part no.7, Tarun Pal Singh as interested party no. 8 and Inder Pal Singh as interested part no. 9; (vi) that of the aforesaid, interested parties Nos. 1 to 7 are legal heirs of Late Sewa Singh and interested parties No. 8 & 9 are not connected with Sewa Singh but claimed to be in possession of the land at the time possession thereof was taken; (vii) the rights of interested parties No. 8 & 9 are to be adjudicated by the LAC Court, Saket; (viii) that details of the members of the family of Late Sewa Singh were furnished to the respondent LAC by Harbans Singh along with a surviving members certificate; (ix) the respondent LAC prepared the memorandum to adjudicate the issue of awarded amount and then the same was sent to the LAC Reference Court, District Court, Saket; (x) during the pendency of the proceedings before

District Court, Saket, Harbans Singh also expired; (xi) during the pendency of the matter before the LAC Reference Court, it was realized that details of all surviving members of Late Sewa Singh were not furnished at the time of preparation of the Award and at the time of sending Reference under Sections 30 & 31 of the Land Acquisition Act, 1894; the said mistake was revealed only in the year 2018; (xii) though the interested parties on record moved an application before the LAC Reference Court, to bring all the LRs of Late Sewa Singh on record, but the same was not taken; (xiii) that now, Sewa Singh is survived by the following legal heirs i.e. (i) Ravinder Kaur (W/o Late Sh. Dalip Singh) (Dalip Singh was Son of Sewa Singh) Daughter in Law of Sewa Singh (ii) Inder Pal Singh (S/o Dilip Singh) Grand Son of Late Sewa Singh (iii) Brijender Kaur D/o Dilip Singh Grand Son of Late Sewa Singh (iv) Gurminder Singh S/o Dilip Singh (Grand Son of Late Sewa Singh) (v) Raminder Pal Singh S/o Darshan Singh (Grand Son of Late Sewa Singh) (vi) Surjit Kaur W/o Late Satpal Singh (Daughter in Law of Late Sewa Singh) (vii) Kanwal Pal Singh S/o Satpal Singh (Grand Son of Late Sewa Singh) (viii) Gurjeet Kaur D/o Satpal Singh (Grand Son of Late Sewa Singh) (ix) Sachin Pal Singh S/o Satpal Singh (Grand Son of Late Sewa Singh) (x) Asha Sachdeva W/o Avtar Singh (Daughter in Law of Late Sewa Singh) (xi) Puneet Singh S/o Avtar Singh (Grandson of Late Sewa Singh) (xii) Jitender Sachdeva S/o Late Harbans Singh (Grandson of Late Sewa Singh) (xiii) Ravi Pal Singh S/o Late Sewa Singh (xiv) Kanwal Nain Singh Son of Late Baljeet Kaur (Baljeet Kaur was Daughter of Late Sewa Singh) (xv) Kanwal Jyot Singh Son of Late Baljeet Kaur (Baljeet Kaur was Daughter of Late Sewa Singh) and of which the names of (i)

Inder Pal Singh (ii) Brijender Kaur (iii) Gurminder Singh (iv) Kanwal Pal Singh (v) Gurjit Kaur (vi) Sachin Pal Singh (vii) Jitender Sachdeva (although Harbans Singh expired during the pendency of the petition and his name was in the list) (viii) Puneet Singh (ix) Kanwal Nain Singh (x) Kanwal Jot Singh (Although Baljeet Kaur was party in the reference) were not included; (xiv) that though the petitioners made a representation to the respondent LAC on 18th September, 2018 to add the remaining names of the legal heirs of Late Sewa Singh, but no action was taken; (xv) thereafter the petitioners filed a claim before the LAC Reference Court, mentioning their share, but the LAC Reference Court, vide order dated 19th December, 2018 observed that it could act only if a Reference was made by the respondent LAC; and, (xvi) though representation was again made to the respondent LAC but no action has been taken and hence this petition.

6. From the narrative aforesaid, it appears that the legal heirs of Late Sewa Singh already shown as interested parties in the Reference under Sections 30 & 31 pending before the LAC Reference Court have no objection to the other legal representatives being also shown as interested parties in the LAC Reference Court.

7. We have, in the circumstances, enquired from the counsel for the respondent LAC, what prejudice the respondent LAC or the beneficiary of the acquisition would suffer even if the names of the others who are also claimed to be heirs of Late Sewa Singh, are added. We are of the view that since the size of the holding of Late Sewa Singh, which was acquired, and the compensation with respect thereto would remain the

same, irrespective of the persons by whom the compensation is to be shared, it should be left to the LAC Reference Court, which in any case alone is competent to decide the question, to decide who is entitled to compensation. If any of the legal heirs of Late Sewa Singh already shown as an interested party before the LAC Reference Court has objection to any of the persons now sought to be added as interested party, he/she would be entitled to raise the said objection and which would also have to be decided by the LAC Reference Court.

8. We accordingly allow this petition. by directing the LAC Reference Court, Saket, before which the Reference with respect to the aforesaid land is pending, to also add the names of the remaining heirs of Late Sewa Singh as interested parties to the Reference pending before it, recording the objections, if any, of the existing interested parties before the Reference Court, and proceed to adjudicate the Reference.

9. The petition is disposed of.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

DECEMBER 14, 2020

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