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

+ **LA.APP. 125/2017**

SUKHBIR SARAN (DECEASED) THR LRS Appellant
Through: Mr. Sunil Bhatnagar, LR (B) of
appellant is present in person.
(M:9810237148)

versus

UNION OF INDIA & ANR. Respondents
Through: Mr. Yeeshu Jain and Ms. Jyoti Tyagi,
Advocates for R-1. (M:9953021339)

AND

+ **LA.APP. 104/2019**

UNION OF INIDA Appellant
Through: Mr. Sachin Nawani, Advocate.
(M:9818083655)

versus

SUKHBIR SARAN (DECEASED)
THR LRS & ANR. Respondents
Through: Mr. Sunil Bhatnagar, LR (B) of
appellant is present in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **16.01.2020**

CM APPL. 30137/2019 (delay) in LA.APP. 104/2019

For the reasons stated in the application, the delay of 855 days in filing is condoned. Application is disposed of.

LA.APP. 125/2017, LA.APP. 104/2019, CM APPL. 30136/2019 & 30138/2019

1. The present two appeals arise out of Award No.1 of 1999-2000 of

village Chandrawali @ Shahdara passed by the ld. LAC. The said award was subject matter of LAC No.52/16/11 before the Reference Court, which has determined the compensation vide judgment dated 9th December, 2016.

2. It has been brought to the notice of this court that in ***Union of India v. Ravi Shankar and Ors., LA. APP.98/2018 (Decided on 31st May, 2018)*** arising out of the same award and same village, a ld. Single Judge of this Court has remanded the matter to be determined afresh in line with the judgment of the Supreme Court in ***Union of India v. Savitri Devi, SLP No. 21136/2015 (Decided on 21st September, 2017).*** The operative portion of the order in LA. APP. No.98/2018 is set out herein below:

“3. Learned counsels for the parties submit that the impugned judgment of the Reference Court be set aside and the matter be remanded back to the Reference Court for recording of additional evidence of the parties with respect to the market value of the land and for passing a fresh order.

4. The appeal is allowed, the impugned judgment of the Reference Court is set aside and the matter is remanded back to the Reference Court for recording additional evidence in terms of the aforesaid judgment of the Supreme Court and the Reference Court shall pass a fresh order in accordance with law.

5. Learned counsel for the appellant seeks extension of time to deposit the Court fees. At his request, time to deposit the Court fees is extended by two weeks.

6. Learned counsel for the appellant further seeks refund of the Court fees to be deposited, under Section 13 of the Court Fees Act, 1870 read with Order XLI Rule 23 of the Code of Civil Procedure, 1908 which provides for refund of the Court fees. Considering that the Reference Court had disposed of the reference on a preliminary point by taking the circle rates and the remand is being made of this preliminary point of law,

the prayer for refund of the Court fees, to be deposited, is allowed and the registry shall grant a certificate authorising the appellant to receive back the full Court fees to be paid on the memorandum of appeal from the Collector of Stamps.

7. Learned counsel for the appellant seeks direction with respect to the decretal amount. In case the decretal amount has not been deposited, the appellant would not be required to deposit/pay the same. However, in case, the decretal amount has already been deposited with the Reference Court but not yet released, the Reference Court shall retain the amount in fixed deposit till fresh adjudication. In case the decretal amount has been released to the private respondent(s), the private respondent(s) is/are permitted to retain the decretal amount till fresh order is passed by the Reference Court subject to the private respondent(s) furnishing sufficient security to the satisfaction of the Reference Court with an undertaking to deposit the amount along with such interest as the Reference Court may direct in the event of the appellant succeeding before the Reference Court. In such cases, an undertaking along with the sufficient security to the satisfaction of the Reference Court be filed by the private respondent(s) before the Reference Court within a period of eight weeks from today. The learned Reference Court shall not permit the private respondent(s) to lead additional evidence till the undertaking and the security in terms of this order is furnished by the private respondent(s) before the Reference Court. In the event of the failure of the private respondent(s) to file an undertaking and the security within eight weeks, the appellant would be at liberty to initiate execution proceedings for recovery of the decretal amount from the private respondent(s) in accordance with law.

8. The parties shall appear before the Reference Court on 17th July, 2018. Learned counsels for the parties

submit that they have noted down the next date of hearing and no fresh notice for their appearance would require for appearance before the Reference Court.”

3. LA. APP. 125/2017 has been filed by the land owners and LA. APP 104/2019 has been filed by the Union of India. Since the very same award has been considered by a Ld. Single Judge of this Court and orders for remand have been passed, the present appeals are also allowed and are remanded for adjudication in terms of the orders passed in LA. APP 98/2018.

4. Let both these matters be listed along with *Union of India v Ravi Shankar (supra)* pending before the Reference Court to proceed further in accordance with the judgment dated 31st May, 2018. In terms of para 6 of the order in LA. APP 98/2018, similarly, court fee in these two petitions is directed to be refunded in full.

5. Parties are directed to appear before the Reference Court on 27th February, 2020.

6. The appeals are disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

JANUARY 16, 2020/dk