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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LA.APP. 134/2017**

RAMESH PARKASH

..... Appellant

Through: Mr. Rajender Yadav, Advocate (M-9868506580)

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjay Kumar Pathak, Mr. Sunil Kumar Jha & Mr. M.S Akhtar, Advocates for R-1 (M-9910770311)
Mr. L. B. Rai and Ms. Arpita Singh, Advocates for R-6. (M:9810614546)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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13.02.2020

1. Respondent No.6 has been served in the matter.
2. The present petition challenges the order dated 22nd October, 2016, to the extent that the Appellant's i.e., Mr. Ramesh Prakash's claim for compensation was rejected by the Trial Court. The impugned order reads as under:

“Vide separate judgment passed and announced in the open court, it is held that the IP No. 1 Sh. Lai Singh is entitled to compensation amount of Rs.10,74,948.24 in respect of land in Khasra no. 1//25 (1-10) and 2//21 (0-13); IP No. 2 Sh. Chand Ram is entitled to compensation amount of Rs,18,27,411.83 in respect of Khasra no. 2//23 (2-06) and 2//22 (1-02); IP No. 3 Sh.Jai Bhagwan is entitled to compensation amount of Rs.30,63,602.19 in respect of Khasra no. 5//2 (4-16) and 5//1 (0-18); and IP No. 7 Sh. Bharat Singh is

entitled to compensation amount of Rs.20,96,148.86. IP No. 4 Sh. Ramesh Parkash, IP No. 5 Sh. Anand and IP No. 6 Sh. Suresh alias Suresh Prakash are not entitled to- any amount.

The reference is answered accordingly.

A copy of this judgment be placed in the case file pertaining to reference under Section 18 of the Act, if any.

File be consigned to Record Room.”

3. The award in this case is Award No.3/DCW/2005-2006 of Village Mundka. The original owner of the land was one Mr. Than Singh whose sons are the Appellant and the other private Respondents. The Appellant and Respondent No.6 – Mr. Anand were not awarded any compensation due to the fact that their claims were either not filed/not perused and/or no evidence was led. The appeal (LA.APP. 62/2017) filed by Mr. Anand was decided by this Court on 11th December, 2018, wherein this Court has permitted him to lead evidence before the Reference Court and directed adjudication of the compensation amount in his favour. The said order reads as under:

“None is present on behalf of the respondent nos. 2, 3, 5, 6 & 7 who all as per record have been served as indicated vide proceedings dated 22.03.2017 reflecting the service of respondent nos. 2 to 6 and respondent no.7 is indicated to have been allowed to be impleaded vide order dated 16.05.2017 when he was present in Court in person.

Vide the present appeal under Section 54 of the Land Acquisition Act, 1894, the appellant seeks the setting aside of the judgment dated 22.10.2016 of the learned ADJ-02, West, Delhi in case no.22A/10/08, New LAC No.33/2016 vide which on a reference made by the Land Acquisition Collector under Section 30-31 of Land Acquisition Act, 1894 in respect of award No. 3/DCW/2005-06 Mundka, in respect of Khasra No.1/25

(1-10), 2/21 (1-14), 22/2 (0-6), 5/1 (4-16), 5/2 (4-16) measuring 13 bigha 2 biswa and 2/22//2 (2-1), 22/1 (4-6), 23/1 (2-6) total measuring 8 bigha 13 biswa of village Mundka, Delhi and in all 21 Bigha 15 biswa as per Naksha Muntzamin along with compensation of Rs.1,16,09,440/-, the claim of the appellant herein arrayed as IP No.5 was not granted, it having been held that IP No.5 i.e. the appellant herein Sh. Anand, though he had filed the claim but had not led any evidence and was thus not entitled to compensation in respect of land in Khasra No. 2/21(2-15), submitting to the effect that the entitlement of the appellant for the claim is not in dispute inasmuch as IP No.1 Sh. Lal Singh, IP No.2 Sh. Chand Ram, IP No. 3 Sh. Jai Bhagwan, IP No.7 Sh.Bharat Singh have all been directed vide the same award to get their share of requisite compensation amounts which amounts on behalf of Union of India have already been deposited before the Reference Court, and it has been submitted on behalf of the appellant that the said IP No.1 Sh. Lal Singh, IP No.2 Sh. Chand Ram, IP No. 3 Sh. Jai Bhagwan, IP No.7 Sh.Bharat Singh and also IP No. 4 Sh. Ramesh Parkash and IP No. 6 Sh.Suresh are all brothers.

As per the averments in the appeal, supported with an affidavit of the appellant, the appellant is an illiterate person and had been waiting till November 2016 with other villagers and wanted to know the status of the case and tried to contact his counsel who could not be found and it was thereafter learnt that the counsel had sold his chamber at the Tis Hazari Courts and the appellant thus failed to get knowledge about the matter and it was only subsequently from the Court staff that he learnt that the reference had already been decided on 22.10.2016 and subsequently engaged another counsel and it was then learnt that his claim had been declined for want of leading evidence.

In the circumstances of the case, taking into

account the factum that the claims of IP No.1 Sh. Lal Singh, IP No.2 Sh. Chand Ram, IP No. 3 Sh. Jai Bhagwan, IP No.7 Sh. Bharat Singh who are brothers of the appellant in relation to the acquired land in respect of award No. 3/DCW/2005-06 Mundka have already been adjudicated upon and granted in their favour, it is considered appropriate to set aside the observations of the learned ADJ-02, West, Delhi in relation to IP No.5 in paragraph 45 of the verdict, holding that IP No.5 is not entitled to any compensation in respect of land in Khasra No.2/21 (2-15) inasmuch as he has not led any evidence, with permission granted to the appellant herein to lead evidence before the learned Reference Court which on being so led is to be adjudicated upon on giving adequate opportunity to the respondents to contest the same, if, they so desire.

The proceedings are thus remanded back to the learned ADJ02, West, Delhi to proceed further in accordance with law and the parties are directed to appear before the said learned Court on the date 14.01.2019 at 2.30 PM. The appeal is disposed of.”

4. Ld. counsel appearing for the Appellant submits that in the case of the Appellant also, though he had appeared before the Reference Court, for various reasons, including his medical conditions, he could not file his claim before the Reference Court. The reasons, which are contained in paragraph 8 of the petition, read as under:

“8. That otherwise also it is pertinent to mention that the appellant/ I.P.No.4 is a retired Ex- military serviceman, who was released from the services for some medical reason i.e. Mental Disorder and has been under constant treatment since long the appellant /I.P.No.4 has been a patient of sugar, Hyper tension and other diseases. It is further pertinent to mention that wife of the appellant / I.P. No.4 was also suffering

from cancer since more than 5-6 years back and ultimately she was expired on 30/06/2015 due to the said diseases, the appellant/I.P. No.4 could not be in touch with the proceedings of the court. It is also pertinent to mention here that the appellant/ I.P. NO.4 along with other claimant had attended one or two dates but in absence of counsel could not understand the nature and urgency of the proceedings.”

5. It is stated in the petition that the Appellant acquired information regarding the pendency of the disbursement of compensation in the Reference Court only in November, 2016 and thereafter moved the application which was rejected.

6. In view of the fact that the Appellant had genuine reasons for not filing his claims in time and the fact that in respect of one of the brothers, the matter has already been remanded back on 11th December, 2018, the present petition is disposed of with the following directions:

- i) the claim on behalf of the Appellant shall be filed within 8 weeks before the Reference Court;
- ii) evidence shall be led by the Appellant and the Reference Court where the petition filed by Mr. Anand in respect of the same award is pending, shall adjudicate the claims filed by the Appellant and decide the Appellant's entitlement in accordance with law.

7. With these directions, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J

FEBRUARY 13, 2020

Rahul/T