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

Date of Decision: 18.11.2022

+ **W.P.(C) 14025/2018**

RAJINDER KUMAR AGARWAL Petitioner
Through: Mr.Biraja Mahapatra &
Mr.Rajat Sharma, Advs.

versus

UNION OF INDIA AND ORS. Respondents
Through: Mr.Ripu Daman Bhardwaj,
CGSC & Mr.Kushagra Kumar,
Adv. for UOI.
Mr.Jayant K. Mehta, Sr. Adv.
with Ms.Gurmeet Bindra,
Mr.Sulabh Rewari, Mr.Vabhor
Mishra & Mr.Atharv Gupta,
Advs. for R-5, 7, 10, 12 & 14 to
21.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

**REVIEW PET. 307/2022 & CM APPL. 49652/2022, CM
APPL. 49653/2022**

1. This review petition has been filed by the Land and Building Department, Government of NCT OF Delhi (hereinafter referred to as 'Review Applicant') seeking review of the order dated 21.01.2020, whereby the review petitioner

was directed to notify the appointment of an Arbitrator within a period of eight weeks under the provisions of Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (hereinafter referred to as the “1948 Act”).

2. The ground on which the review has been sought is that the petitioners in the writ petition failed to disclose to this Court that the compensation for the acquired land already stood determined. It was also not disclosed that the predecessors of the petitioner had filed a suit, being Suit No.94/1955, for Declaration and Injunction. The said suit was dismissed, whereafter they challenged the dismissal order in appeal, including Regular Second Appeal, as also an LPA. It is only thereafter, that the earlier writ petition, being WP(C) No.2685/1993, was filed by the petitioners seeking quashing of the Notification by which the land had been acquired. They however, concealed the above facts from this Court. By an order dated 19.04.1996, this Court directed appointment of an Arbitrator in terms of Clause (e) to sub-section (1) of Section 7 of the 1948 Act.

3. The learned counsel for the review applicant submits that as this order has been obtained by concealing the factum of the compensation having already been determined as also the earlier suit filed, and the review applicant was not made party to the earlier writ petition, the same cannot bind on the review applicant, and is a nullity. In support, he placed reliance on the judgment of the Supreme Court in *United India Insurance Co.Ltd. v. Rajendra Singh & Ors.*, (2000) 3 SCC 581.

4. I have considered the submission of the learned counsel for the review applicant. The present petition was filed by the petitioner complaining that in compliance with the order passed by this Court on 19.04.1996, the review applicant had appointed an Arbitrator, who withdrew from the proceedings, forcing the petitioner to file another petition, being Civil Writ Petition No.4548/2012. The said petition was directed to be treated as a representation. As the Arbitrator was still not appointed, the present petition was filed.

5. In reply to the writ petition, the review applicant filed its counter affidavit on 14.01.2020. In the counter affidavit, it was contended that steps were being taken for appointment of a new Arbitrator. Taking into account the stand of the review petitioner, this Court vide order dated 21.01.2020 disposed of the writ petition, directing the review applicant to appoint a new Arbitrator within a period of eight weeks. The petitioners herein filed a contempt petition alleging that the Arbitrator was still not appointed, at which stage, the review applicant appointed an Arbitrator. Thereafter, some of the claimants to the land filed an application seeking review of the order, claiming that the proceedings should in fact to be carried out under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In the said review petition also the review applicant was duly represented. The said review petition was disposed of by a

detailed decision dated 19.05.2022 of this Court. It is only thereafter that the present review petition has been filed.

6. In support of the plea that the compensation already stood determined, the learned counsel for the review applicant has drawn my attention to a communication dated 26.08.1996, which reads as under:

"This is in continuation of my d.o. letter of even number dated 2nd August, 1996 regarding Civil Writ Petition filed by Shri Parkash Chand Agarwal. As a follow-up of the meeting convened by you on the subject the Land & Building Department has sent a photo-copy on the file No. 15(67)/53-MTCE which they have retrieved from Daily Archives, Institutional Area near Qutab Hotel, Mehrauli. The said file relates to acquisition of land in Villages Sadhora Khurd, Chawkri Mubarakbad and Nimri. We have gone through the papers and find that the compensation amounting to Rs.4,34,953.30 was assessed by the Competent Authority. This amount was sanctioned by the then Ministry of Rehabilitation on 21/27.01.1966 but this amount was not disbursed by the Delhi State Government as funds could not be drawn by them. It does not come out from the papers as to whether the amount was at all paid to the owners of the land. It is also borne out from the papers that the owners of land filed a civil suit in the court of Sub-Judge 1st Class for declaration and injunction. This suit was dismissed and the owners filed a Regular Second Appeal which too was dismissed following which owners of the land i.e. Matu Ram & others filed a LPA No. 86-D-63-Matu Ram & Others versus Union of India in the then Punjab High Court Delhi. The fate of this LPA is not known as the papers relating to this LPA are not available in this file.

However, it is seen from the papers that these papers must be available in file No.LK6(3)/54-LAB/Rev. of the Office of Deputy Commissioner, Land Acquisition Branch, Delhi. Another file which could be of immense use in this case file No. 27(225)/63-Lit.I/LAB which also pertains to the Office of the Deputy Commissioner Land Acquisition Branch. One more file bearing No.LA 9(5)/56 pertaining to the DDA could also be containing some papers.

2. I shall be grateful if you could kindly instruct all concerned to locate these files on a war footing and sent the same to this office so that a case for filing SLP could be made out without loosing any further time."

(Emphasis Supplied)

7. Apart from the fact that the above communication is of a vintage of 1996 and it is not stated as to what steps were taken thereafter by the review applicant, a reading of the above would show that though compensation of Rs.4,34,953.30 was assessed by the Competent Authority and sanctioned by the then Ministry of Rehabilitation on 21/27.01.1966, this amount was not disbursed by the Delhi State Government "as funds could not be drawn by them". At no stage of proceedings did the review petitioner plead that the compensation having already been determined, the petitioners have lost their right to appointment of an Arbitrator. No document has been placed on record, even with the present review application, to show that the compensation allegedly determined was ever communicated to any of the petitioners or their predecessor in interest.

8. The learned counsel for the review applicant submits that the above fact came to the notice of the review petitioner only in September/October, 2022 while searching for old files and documents carried out at the National Archives and the Record Room in Tis Hazari. In my view, the same cannot be a ground for seeking review of the order passed by this Court. The correspondence relied upon by the learned counsel for the review applicant is an internal communication dated 26.08.1996 and is not supported by any document which shows that the compensation was indeed determined and/or communicated to the petitioners/claimants of the land. On the other hand, it records that the compensation is admittedly not paid.

9. In view of the above, I find no ground to condone the delay in filing of the present review application and/or to review the order passed by this Court. The applications as also the Review Petition are accordingly dismissed. It shall, however, be open to the review applicant to urge all its plea before the Arbitrator, in accordance with law.

NAVIN CHAWLA, J

NOVEMBER 18, 2022/Arya