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

Date of decision: 16.08.2023

+ **CM(M) 1304/2023 & CM APPL. 41763/2023**

DELHI URBAN SHELTER IMPROVEMENT BOARD(ERST
WHILE SLUM AND JJ DEPARTMENT, MCD) Petitioner

Through: Mr. Naveen Kumar Raheja, Mr.
Neeraj Kumar and Ms. Meenakshi Jha,
Advocate with Mr. Vijay Maggo, Law
Officer and Mr. Pranav Sinha, LA

versus

SUSHIL KUMAR & ORS. Respondents

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel for L&B/LAC with Mr. Sunil
Kumar Jha and Mr. R. Violet Tigga
and Ms. Nidhi Thakur, Advocates for
R-2
Mr. Sanjay Katyal, Standing Counsel
for DDA with Mr. Nihal Singh,
Advocate for R-3
Mr. V.S.Rana, Advocate (Through
VC) for R-1

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPLs. 41761/2023, 41762/2023 (For Exemption)

Allowed, subject to all just exceptions.

Accordingly, the present applications stand disposed of.

CM(M) 1304/2023 & CM APPL. 41763/2023



1. This petition filed under Article 227 of Constitution of India impugns the orders dated 27.07.2023 and 05.08.2023 passed by the ADJ-1, North West District, Rohini Courts, Delhi ('Executing Court') in Execution Civil No. 340/2020. The said execution proceedings emanate from the decree dated 19.08.2009 passed by Reference Court in LAC No. 616A/2008.

1.1. The Petitioner herein was arrayed as Respondent No.3 in the reference made by Land Acquisition Collector (LAC) under Section 18 of the Land Acquisition Act, 1894; and is the beneficiary and the party in possession of the acquired land. Respondent No. 2 herein acquired the land and was impleaded as Respondent No. 1 in the said reference.

1.2. The order passed by the Reference Court on 19.08.2009 has admittedly become final between the parties.

2. It is admitted that a sum of Rs. 46,00,000/- approximately has been paid by Petitioner herein to Respondent No. 2 on 09.03.2022. The said amount has been deposited by Respondent No. 2 in the Executing Court on 05.08.2023 albeit belatedly.

2.1. There is an admitted shortfall in the decretal amount. As per the Respondent No. 1, the shortfall is to the tune of Rs. 60,00,000/- and as per the Respondent No. 2 the shortfall is to the tune of about Rs. 54,00,000/- as only.

3. After some arguments, learned counsel for the Petitioner states on instructions of Mr. Vijay Maggo, Law Officer, Director Land that the Petitioner will deposit the deficit amount of the decretal amount due and payable up to 31.08.2023 with the Executing Court on or before 01.09.2023 through a bank instrument duly drawn in the favour of the Reference Court.

3.1. Learned counsel for the Respondent No. 2 states that Respondent No. 2 will duly communicate to the Petitioner the calculation of the outstanding



amount payable up to 31.08.2023 on or before 22.08.2023, to enable it to comply with the aforesaid undertaking.

4. Learned counsel for the Petitioner states that the said deposit of balance decretal amount is however, being made without prejudice to the pleas specifically raised at Grounds 'B', 'D' 'F', 'G' and 'H' of this petition, which reads as under:-

"B. Because the Executing Court has failed to appreciate that the LAC has flouted the statutory guidelines issued by notification bearing No. F.1/26/88/L&B/WC, dated 12.05.2006, by the Land & Building Department to streamline the acquisition proceedings and the action required to be taken in a time bound manner to avoid any harassment to land owners regarding payment of compensation etc.

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D. Because the LAC has failed to raise the demand of the enhanced compensation amount within 30 days to the Land & Building Department/Requisitioning Department. As per the said standing instruction, in respect of payment of enhanced compensation, it was mandated that if the legal cell gives an opinion that there is no need to file the RFA against the enhancement given by the Ld. ADJ, then the LAC will send the demand of the enhanced compensation amount within 30 days to the Land & Building Department/ Requisitioning Department.

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F. Because the Executing Court failed to appreciate that the Petitioner cannot be fastened with liability to pay interest on the enhanced compensation from the date of the order of the Reference Court, as the delay has been caused by the LAC in raising timely demand for enhanced compensation within 30 days of the order of the Reference Court.

G. Because the Executing Court failed to appreciate that no explanation was forthcoming at the end of the LAC qua the delay in raising the demand within the stipulated time as per the extant standing instructions.

H. Because the Executing Court has failed to appreciate that the amount due and payable to the Decree Holder on account of enhanced compensation substantially comprises of the interest accrued due to not raising demand within the stipulated time by the LAC. It is stated that the Petitioner cannot be made to suffer for the default/derelection of duty on the part of the LAC."

4.1. He states that, in fact, the Executing Court after taking note of the standing instructions dated 12.05.2006 has already issued notice to Chief



Secretary, GNCTD on 27.07.2023 to submit its report. He states that the Petitioner asserts that the liability of payment of interest should be borne by the Respondent due to the delayed communication of the demand in terms of the decree.

4.2. He states that the inter-se claim of the Petitioner qua Respondent No. 2 with respect to the effect of the delay, if any, on the liability of the government agency which shall bear the burden of interest should be decided by the Executing Court in these proceedings.

4.3. He further states that he has no objection if the decretal amount to be deposited on or before 01.09.2023 and the decretal amount, which already stands deposited on 05.08.2023 is released to Respondent no. 1 herein.

4.4. He states that however the matter before the Executing Court be kept pending for the limited purpose of determining the issues raised by the Petitioner at Grounds 'B' 'D' 'F', 'G' and 'H' herein, even after the decree is satisfied qua the Respondent No. 1.

5. In reply, learned counsel for Respondent No. 2 states that the Petitioner herein is liable to pay the decretal amount to the decree holder in terms of the decree dated 19.08.2009. He states that the decree holder i.e., Respondent No. 1 is entitled to the said amount from Petitioner as the decree has become final. He states that he opposes this petition.

5.1. He states that the Respondent No. 2 herein reserves its right to respond to the contentions of the Petitioner by filing an appropriate reply before the Executing Court.

5.2. He states that he has no objection to the issues raised by Petitioner being decided by the Executing Court. He states, however, this Court may observe that all the rights and contentions of the parties in this regard are left open.



6. Learned counsel for the Respondent No. 1 states that he reserves his right to verify the calculation submitted by Respondent No. 2 to the Petitioner and he will assist the Executing Court, in case, according to the Respondent no. 1, there is any further amount due and payable to him under the decree dated 19.08.2009.

7. This Court has perused the paper-book and heard the submissions of the parties.

8. The Petitioner and Respondent No. 2 both admit that the Respondent No. 1 i.e., the decree holder is entitled to receive the amount. There can therefore be no ground to challenge the correctness of the impugned orders in so far as the same direct steps for enforcing the decree. Therefore, in the opinion of this Court the said orders are correct and do not require interference.

9. However, in view of the undertaking given by the Petitioner to deposit the decretal amount this court deems it appropriate to grant time to the Petitioner until 31.08.2023. The undertaking of Petitioner given on instructions of Mr. Vijay Maggo, Law Officer, Director Land is taken on record and the Petitioner is bound down to the same.

9.1. Respondent No. 2 is also bound down to the statement that it will provide the calculation of outstanding decretal amount to the Petitioner on or before 22.08.2023 to the Petitioner herein.

9.2. It is clarified that in case, there is any delay by Respondent No. 2 in providing the calculations to the Petitioner, the Petitioner will proceed to deposit an ad-hoc amount of Rs. 60,00,000/- on or before 31.08.2023, subject to the calculations being provided by Respondent No. 2 subsequently.

9.3. In view of the aforesaid undertaking of Petitioner, the operation of the



order 27.07.2023 and 05.08.2023 is stayed until 01.09.2023. However, it is made clear that if there is any default by the Petitioner in complying with the undertaking given to this Court today, the Respondent will be at liberty to proceed with the directions contained in 27.07.2023 and 05.08.2023.

10. It is directed that upon deposit of the differential amount on 31.08.2023; the Executing Court is requested to release the decretal amount to the Respondent No. 1 including the amount already deposited on 05.08.2023.

11. The Respondent No. 1 i.e., the decree holder's right to verify the calculation filed by Respondent No. 2 is left open and the same will be examined by the Executing Court, if an objection is raised by the Respondent No. 1.

12. The right of the Petitioner to have its issue/contention as regards apportionment of liability of interest as between Petitioner and Respondent No. 2 is left open and the Executing Court is requested to decide the said issue in these executing proceedings. It is clarified that this Court has not examined the merits of the said issue as raised by the Petitioner and contentions and pleas of both parties are left open to be decided by the Executing Court.

13. With the aforesaid directions, the present petition stands disposed of. Pending applications, if any, also stand dismissed.

MANMEET PRITAM SINGH ARORA
(JUDGE)

AUGUST 16, 2023/rhc/aa

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