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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5875/2019

RAJINDER SINGH & ORS

.....Petitioners

Through: Mr I S Dahiya & Mr Ujjwal Sharma,
Advocates with P1 in person.

versus

LAND ACQUISITION COLLECTOR (NEW DELHI) & ANR

.....Respondents

Through: Mr Sanjay Kumar Pathak, SC, Mr
Sunil Kumar Jha, Mr M S Akhtar, and
Mr Mayank Madhu, Advocates for
LAC/R1.

Mr Siddharth Khatana, SPC for
R2/CPWD/UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

10.02.2025

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1. The petitioners have filed the present petition, *inter alia*, impugning an order dated 27.02.2019 (hereafter *the impugned order*) passed by the Land and Acquisition Collector (hereafter *the LAC*) whereby the application preferred by the petitioners under Section 28A of the Land Acquisition Act, 1894 (hereafter *the LA Act*) was rejected, *inter alia*, on grounds of limitation.
2. Respondent no.1/LAC had concluded that the reference was without any merit as petitioners claim for enhanced compensation, included, lands which, according to the LAC, did not belong to the petitioners. Additionally, the reference was rejected on the ground that it was filed beyond the prescribed limit of ninety days.
3. The notice in the present petition was issued on 24.05.2019, which was accepted by the learned counsel for the respondents who was present on



advance notice. Six weeks' time was granted for filing the counter-affidavits and the parties were directed to complete the pleadings. The petition was thereafter listed on 04.11.2019. The respondent did not file its counter affidavit and once again, further time of six weeks' time was granted to the respondents to file the counter affidavit. However, the respondent did not file the same.

4. The matter was listed on several occasions, but was adjourned on one ground or the other. The petition was again, listed on 01.03.2023 and once again, six weeks' time was granted to the respondent to file the counter affidavit. Thereafter, the present petition was dismissed on account of non-appearance of the petitioners on two occasions. However, the same has been restored by an order dated 28.05.2024. On the said date, this court noted that despite sufficient opportunities, the respondent had not filed a counter affidavit. Thus, once again final opportunity was granted to the respondent to do so within the period of four weeks from the said date. More than eight months have since lapsed, but the counter affidavit has not been filed as yet.

5. In view of the above, we consider it apposite to proceed on the basis of the record available. The averments made in the present petition, are required to be accepted as correct on account of not being traversed.

6. The petitioners claim to be the owner of certain lands located in the revenue estate of Village Mohammadpur Munirka, Delhi, which was covered under the notification dated 08.03.1957 issued under Section 4 of the LA Act. The award in respect of the said land was published on 07.10.1958. The petitioners also state that the compensation as assessed was paid to the recorded owner/predecessor-in-interest of the petitioners.

7. The petitioners' predecessor-in-interest had not made any reference



under Section 18 of the LA Act for enhancement of the compensation. However, it is stated that other similarly placed land owners, whose lands were also acquired under the same award, had filed a reference under Section 18 of the LA Act. The said reference was disposed of by an order dated 26.10.2006 passed by the Court of learned Additional District Judge and the compensation was enhanced to ₹10/- per square yard.

8. On 06.02.2007, the petitioners filed an application under Section 28A(1) of the LA Act. This was premised on the order dated 26.10.2006 passed by the learned Court of Additional District Judge whereby the compensation payable to certain similarly placed other land owners was enhanced to ₹10/- per square yard.

9. The application filed by the petitioners was rejected by an order dated 02.02.2012 on the ground that the petitioners' predecessor-in-interest had not raised any protest in respect of the Award and accepted the compensation. In the meanwhile, the petitioners had also filed an application under Section 28A(3) of the LA Act, which was also rejected.

10. Aggrieved by the same, the petitioners filed a writ petition being W.P.(C) 464/2015 before this court, which was allowed by an order dated 08.11.2017. This court had held that petitioners could not be precluded from claiming enhanced compensation on the ground that the predecessor-in-interest did not raise any protest at the material time. Accordingly, the petitioners' application under Section 28A of the LA Act was restored for consideration. As noted above, the same was rejected partly on merits and on the ground that the application was barred by limitation.

11. Petitioners claim that their application under Section 28A(1) is premised on the order dated 26.10.2006 and the time spent in obtaining the



certified copy of the said order is required to be excluded for calculating limitation period of three months.

12. The Petitioners claim that the application for obtaining the certified copy of the order (award) dated 26.10.2006 was filed on 19.01.2007. The petitioners have further averred that the copying agency had called upon the petitioners to collect the certified copy on 25.01.2007, however when the applicants appeared before the copying agency on 27.01.2007, they were informed that the certified copy is not ready and were asked to collect the same on 02.02.2007. Paragraph no. 11 of the petition which contains averments to the aforesaid effect is set out below:-

*“11. That, this application was filed within statutory period and also satisfying the other requirement of law. Here it is submitted that vide Application No. 5405 dated 19.01.2007, the certified copy of the AJD's Award dated 26.10.2006 was applied. The Copying Agency asked the application, come on 25.01.2007 to collect the certified copy. The applicant appeared the Copying Agency on 27.01.2007, the certified copy was not ready on that day, therefore, the applicant was again asked to come on 02.02.2007 to collect the certified copy. Finally, the certified copy was prepared on 29.01.2007, but the applicant was given the date for collection of certified copy on 02.02.2007, therefore, the applicant reached on 06.02.2007 to collect the certified copy and the same was delivered to the applicant. Photocopy of slip/receipt issued by the Copying Agency being application no.5405 dated 19.01.2007, is filed herewith as **ANNEXURE P-5**, there is all above endorsement/explanation given in this para.”*

13. According to the petitioners the period from 19.01.2007 being the date of the application for a certified copy and 02.02.2007 being the date when the petitioners were called upon to collect the certified copy is



required to be excluded.

14. Mr. Pathak, learned counsel appearing for the LAC submits that the receipt for the application filed by the petitioner for seeking the certified copy of the order dated 26.10.2006 has hand written noting that reads as:

*“Ready
29.1.7
Refund -85”*

He submits that the period from the date of the application, i.e., 19.01.2007 to 29.01.2007 is required to be excluded for the purpose of computing the limitation for filing the application under Section 28A of the LA Act.

15. It is apparent from the above, that the certified copy of the order was not ready on 27.01.2007. We accept the petitioners statement that they were asked to collect the certified copy of the order on 02.02.2007. Admittedly, if the said period from 19.01.2007 to 02.02.2007 is excluded, the petitioners’ application would be within the period as prescribed.

16. In view of the above, the impugned order, rejecting the petitioners’ application under Section 28A of the LA Act on the ground of the limitation cannot be sustained.

17. Mr. Pathak fairly states that since the LAC’s finding that petitioners’ application is barred by limitation has been set aside, the question of merits the LAC would require to examine the merits of the petitioner’s application afresh.

18. In view of the above, the impugned order is set aside and the petitioners’ application is restored for decision of the LAC on merits.

19. Considering the time that has lapsed, we request the LAC to consider



the application as expeditiously as possible, preferably within a period of four months from date.

20. The writ petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

ANOOP KUMAR MENDIRATTA, J

FEBRUARY 10, 2025

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Click here to check corrigendum, if any