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

+ **W.P.(C) 4157/2023**

AMITA J SINGH AND ANOTHERPetitioner

Through: Mr. Akhil Sachar, Ms. Sunanda
Tulsyan and Ms. Kashish
Maheshwari, Advs.

Versus

LT. GOVERNOR NCT OF DELHI AND OTHERS.....Respondent

Through: Mr. Sanjay Kumar Pathak, Standing
Counsel with Mrs. K. K. Kiran
Pathak, Mr. Sunil Kumar Jha, Mr. M.
S. Akhtar and Mr. Sami S. Siddiqui,
Advs. for R-1, 2 & 4.
Ms. Chand Chopra and Ms. Neha
Bhupathiraju, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

27.01.2025

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1. The petitioners have filed the present petition, *inter alia*, praying as under:

“a) Issue a Writ, Order or Direction in the nature of Mandamus to pass a Supplementary Award qua tress in terms of the Award No. 06/2005-06/DC(N-W) DATED 27.6.2005/12.7.2005;”

2. The petitioners are essentially aggrieved on account of not being compensated for the trees standing on the land, which was acquired in terms of an Award [Award No. 06/2005-06/DC(N-W) dated 27.06.2005/12.07.2005]. The petitioners were the owners of the land admeasuring 8 bighas 18 biswas comprising Khasra No. 21/12/1 (1-13), 19/1 (3-10) and 22 (3-15) located in village Pehladpur Bangar, National Capital Territory of Delhi (hereafter *the subject land*).



3. The Notification under Section 4 of the Land Acquisition Act, 1894 (hereafter *LA Act*) for acquisition of the subject land was issued on 21.03.2003. The said land was proposed to be acquired for development of Phase-IV and V of the Rohini Residential Scheme.

4. An Award was passed on 27.06.2005/12.07.2005 in respect of a large tract of land including the subject land. The said award explicitly states that the supplementary award in respect of the trees would be announced. Thus, undisputedly the Award did not include any compensation on account of the trees that were standing on the subject land.

5. The petitioners claim that there were 500 Eucalyptus trees standing on the subject land. Whilst the petitioners have been dispossessed of the land and their property, they have not been compensated for the trees. It is in the aforesaid context that the petitioners pray that directions be issued for passing of a supplementary award in respect of the trees.

6. Mr. Pathak, the learned counsel appearing for the respondent submits that there is no provision under the *LA Act* for passing of a supplementary award as it contemplates a singular award for the land acquired. He submits that if there is any development on the land or trees in respect of which a higher compensation is required to be paid, the same would necessarily have to be included in the award. He referred to the decisions of the Supreme Court in *Mohanji & Anr. v. State of U.P. & Ors.*; *JT (1995) 8 S.C. 599*, as well as in *State of Punjab & Ors. vs. Sharan Pal Singh & Ors.*; *1996 (11) SCC 683*, and drew the attention of this court to the following extract from the decision in the case of *Mohanji & Anr. v. State of U.P. & Ors.* (*supra*):

“5. A perusal of the award dated 23.09.1986 leaves no doubt that the compensation awarded therein is for the entire land measuring 0.99 acres bearing Plot No. 1311 belonging to the appellants which was



acquired in the proceedings. It also appears from the award that the valuation report which has been sought from the Public Works Department had not been received and, therefore, the Land Acquisition Officer contemplated determination of compensation for the building in addition to the compensation awarded for the entire land being made on a subsequent date after the expiry of the specified period of two years under Section 11 of the Act. The question is whether in these circumstances it can be said that no award had been made under Section 11 of the Act in the proceeding to result in lapse of the entire proceedings for the acquisition of the land?

It is no doubt true that the entire award which is contemplated under Section 11 of the Act by virtue of the prescription in Section 11A has to be made within the period of two years failing which the entire proceeding shall lapse. The question is whether it can be said in the present case that no award has been made under Section 11 of the Act in this proceeding? In our view it cannot be said in the present case that no award under Section 11 has been made under for the land acquired. Admittedly, compensation has been determined in the award so made for the entire area of 0.99 acres. In view of the fact that no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law, the award dated 23.09.1986 must be construed as the whole award made under Section 11 awarding compensation for the entire area of 0.99 acres with no compensation awarded for the building. The appellants, therefore, had the right to claim compensation for the building by seeking a reference under Section 18 of the Act treating the award as one in which compensation had been determined and awarded only for the entire land measuring 0.99 acres but no compensation was awarded for the building therein. The appellants had the remedy to claim compensation for the building in accordance with law treating the award made as not awarding any compensation for the building. That is, however, a different matter and it does not require any further consideration in this context. It is sufficient to say that the award dated 23.09.1986 made within the period specified in Section 11A of the Act must be construed as an award under Section 11 in the proceedings for acquisition of the appellants' land bearing Plot No. 1311 having a total area of 0.99 acres. The contention that the entire proceeding for acquisition of the land has lapsed by virtue of Section 11A cannot, therefore, be accepted."



7. On the strength of the aforesaid observations, he submits that the award in respect of the property must be construed to be the entire award notwithstanding that the award expressly states the supplementary award would be passed in respect of trees. He submits that even though no compensation for the trees has been awarded in terms of the Award [Award No. 06/2005-06/DC(N-W) dated 27.06.2005/12.07.2005], it is required to be construed as a complete award and no directions can be issued for passing of a supplementary award.

8. The learned counsel appearing for the petitioners has countered the aforesaid submission. He referred to the decision of a Coordinate Bench of this court in ***Dharamvir Udar & Ors. vs. Land Acquisition Collector (SW) & Ors., Neutral Citation No.: 2023:DHC:000428*** as well as the decision of the Supreme Court in ***M/s. Ultra-Tech Cement Ltd. v. Mast Ram & Ors.: AIR Online 2024 SC 659***, and contended that in the said cases, the courts have accepted the practice of issuance of a supplementary award.

9. In ***Dharamvir Udar & Ors. vs. Land Acquisition Collector (SW) & Ors. (supra)***, this court had considered a case where a supplementary award was passed. The court has reasoned it would not be open for the authority to take a stand that supplementary award cannot be passed having passed a supplementary award.

10. In ***M/s. Ultra-Tech Cement Ltd. v. Mast Ram & Ors. (supra)***, the Supreme Court had made observations to the effect that supplementary award required to be construed as a continuation of the original award.

11. In the facts of the present case, there was an express statement in the Award [Award No. 06/2005-06/DC(N-W) dated 27.06.2005/12.07.2005] to the effect that the supplementary award would be passed. In this view, the



petitioners cannot be faulted for seeking that a supplementary award be passed in respect of the trees as they have not received any compensation for the same.

12. The central dispute stems from denial of compensation for the assets (Eucalyptus trees) taken over by the LAC. There is also material on record which suggests in form of letters whereby the petitioners have raised protests regarding non-passing of the supplementary award. Plainly, the petitioners are entitled to compensation for the trees that were standing on the subject land.

13. The petitioners cannot be left remediless. In ***Dharamvir Udar & Ors. vs. Land Acquisition Collector (SW) & Ors. (supra)***, the court had observed that the apposite remedy would be by making a reference under Section 18 of the LA Act.

14. In the present case, this court has been informed that the petitioners have filed a reference under Section 18 of the LA Act, and the same is pending.

15. In the given circumstances, we consider apposite to permit the petitioners to seek enhanced compensation under the award by treating that the compensation of the land as inadequate as the value of the trees has not been accounted for while computing the compensation as determined under the award in question.

16. The petitioners would be at liberty to file an appropriate application for amendment of the reference along with such documents as the petitioners consider relevant in this regard.

17. In the event, an application for such an amendment is made within a period of eight weeks, we direct that the same be considered on merits



uninfluenced by the question of delay. We also note that the material available on record in respect of the specific details of the trees as well as the value may be sketchy. In such circumstances, the court would consider the compensation based on the material as placed before the concerned court.

18. We dispose of the present petition in the aforesaid terms.

VIBHU BAKHRU, J

AJAY DIGPAUL, J

JANUARY 27, 2025

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Click here to check corrigendum, if any