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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 04.02.2025***+ **LA.APP. 300/2014****CHAND BEHARI (DECEASED) THR LRS**Appellant

Through: Mr. Apoorv Kurup, Sr. Adv. with Mr. Abhinav Bhardwaj, Mr. Gurjas Singh Narula, Advs.

versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Sanjay Kumar Pathak, Standing Counsel with Ms. K. Kaomudi Kiran, Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mr. Mayank Madhu, Mr. Sami Sameer Siddiqui, Advs. for R-1

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM APPL. 68894/2024 [For direction]**

1. This is an Application filed by the Petitioner seeking the following prayer:

“i. decide the matter in light of the judgement of this hon’ble court in LA.APP. NO. 109/2013, titled Bhola Nath Sharma (D) Thru LRS.V. Union Of India (2016:DHC:2475) dated 23.03.2016 and direct the fair market value of the land to be fixed at Rs. 2200/- per sq. yards along with interest and statutory solatium as applicable.; and

ii. pass any other or further order/s as this Hon’ble court may deem fit and proper in the interest of justice and in favour of the appellants.”

2. It is the contention of the Appellant that during the adjudication of the present case before the learned Trial Court, the case captioned ***Bholanath***



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*Sharma v. DDA*¹ was relied upon in the present case for determining the market value of the land in question. It is contended that the evidence as presented in the *Bholanath* case was considered to determine the market value of the subject land with the consent of the parties.

3. Learned Senior Counsel for the Appellant submits that the present Appeal was filed in the year 2014, which is prior in time to the decision in the *Bholanath* case and hence, the necessity of this Application.

4. Learned Senior Counsel for the Appellant submits that while deciding the issues in the present case, the learned Trial Court gave a finding that despite the notification in the present case being of a date, two years later than the *Bholanath* case, a 5% per annum progressive increase would not be excessive.

5. Learned Senior Counsel for the Appellant refers to the following extract of the Judgment dated 08.05.2012 which has been impugned in the present Appeal. The relevant extract is set out below:

“ISSUE NO. 1

What was the market value of the acquired land as on the date of issuance of notification u/s 4 of LA Act?

19. In the case of Bhola Nath Sharma & Anr. vs. DDA, LAC no. 283/11 the market value has been fixed as Rs. 250/- per sq. yds. for the acquired land in question and the same is also fixed here in this case. I am conscious of this fact that the notification in this case is of later date i.e. of the date of 1980. As per the catena of judgments by the Apex Court some percentage of increase on the set rate will suffice the need to arrive the market value on the date of issuance of notification under section 4 of the LA Act, 1894. I am of this opinion that increase by 5% p.a. progressively would not be excessive in this

¹ LAC No.283/2011



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case. Hence, the market value of the land of the petitioner is fixed by giving 2 year progressive increase @ 5% p.a. that comes out to be Rs. 275/- per sq. yds. on the date of issuance of notification under section 4 of the LA Act i.e. on 02.12.1980.

Issue no. 1 is decided accordingly.

ISSUE NO. 2

To what enhancement in compensation, if any, are the petitioners entitled?

20. The petitioners are entitled to balance amount of compensation @ Rs. 275/- per sq. yards in respect of the acquired land in question as per admitted statement under section 19 of LA Act in this case.

Issue no. 2 is decided in terms of the above.

RELIEF

21. Petitioners are entitled to interest @6% p.a. from the date of notification under section 4 and till the date of compensation awarded by LAC. Petitioners are also entitled to 15% p.a. solatium on the enhanced amount of compensation, the case being prior to the amendment of the LA Act in the year 1984. No interest on solatium [in the light of the judgment in RFA No. 387/1991 titled as Ramphool & Ors. vs. UOI].

22. Reference is answered vide the above award. Statement under Section 19 of the L.A. Act be annexed to the award. Copy be sent to the Land Acquisition Collector concerned for information and necessary compliance within a week from the date of this order. As the acquired land has been placed at the disposal of respondent no. 2 as the ultimate beneficiary, the liability of the respondents would be joint and several. No orders as to costs."

6. Learned Counsel for the Respondents submits the he does not wish to file any Reply to the present Application.

7. Given the fact that the order the Court proposes to pass today and subject to the Appellant depositing the requisite court fee, the prayers in the present Application are allowed.



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LA.APP. 300/2014

8. The present Appeal has been filed under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as “LA Act”] seeking to challenge a judgment dated 08.05.2012 passed by the learned ADJ, Saket Courts, New Delhi [hereinafter referred to as ‘Impugned Judgment’]. By the Impugned Judgment, the Reference Petition under Section 18 of the LA Act was disposed of by the learned Trial Court affixing the market value of the subject land at Rs.275/- per sq. yards relying on the **Bholanath** case. The learned Trial Court also decided that the Appellant is entitled to interest at the rate of Rs.6% per annum and 15% solatium on the enhanced amount of compensation, as was set out therein.

9. The Impugned Judgment/award was made in pursuance of a notification under Section 4 of the LA Act dated 02.12.1980 and notification under Section 6/17 of the LA Act on 26.03.1981. The award bearing no.38/83-84 was passed in respect of the land at Khasra No.1733/1200/559/1/2 situated in revenue estate of Village Bahapur, Delhi [hereinafter referred to as “subject land”].

10. The Land Acquisition Collector [hereinafter referred to as ‘LAC’] assessed the compensation for the land at the rate of Rs.150 per sq. yds. Thereafter, the Appellant filed a Reference Petition under Section 18 of the LA Act seeking enhancement of the compensation so awarded before the learned Reference Court. The Appellant sought to rely upon the evidence which was led in the case of **Bholanath** case, wherein the market value of similarly situated property had been fixed at the rate of Rs.250 per sq. yds. as on 30.06.1978, which was the date of the notification under Section 4 of



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the LA Act in the proceedings in **Bholanath** case.

11. As stated above, the learned Reference Court while relying upon the market value fixed in the **Bholanath** case at the rate of Rs. 250 per sq. yds. allowed the reference Petition, observing that the increase by 5% per annum progressively, would not be excessive and the learned Reference Court fixed the market value at the rate of Rs.275 per sq. yds. as on 02.12.1980, which was the date of the notification under Section 4 of the LA Act in the present Petition.

12. Learned Senior Counsel for the Appellant submits that the judgment which was passed by the Reference Court in the **Bholanath** case was challenged before this Court in LA. APP. 109/2013 captioned as **Bhola Nath Sharma (D) Thru LRS.V. Union of India & Anr**² [hereinafter referred to as “Bholanath 2 case”] and other connected matters. By an order dated 23.03.2016, the challenge was upheld and market value of that land was increased to Rs. 2000 per sq. yard.

12.1 A challenge was placed to the judgment dated 23.03.2016 by Respondent No.2/DDA before the Supreme Court in Special Leave to Appeal (C) No.19123/2016 captioned **Delhi Development Authority v. Bhola Nath Sharma dead Through LRs and Ors.**³ and the same was dismissed by the Supreme Court by order dated 06.04.2017. Subsequently, it is contended, that a Review Petition bearing RPC No.1588/2017 captioned **Delhi Development Authority v. Shri Bhola Nath Sharma deceased thr.**

² 2016:DHC:2475

³ (2011) 2 SCC 54



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*LRs & Ors.*⁴ was filed by Respondent No.2/DDA, which was also dismissed by the Supreme Court by an order dated 09.08.2017.

13. Learned Senior Counsel for the Appellant thus submits that the judgment in the *Bholanath* case has attained finality. It is further contended that all that the Appellant seeks is parity with the decision in the present case and a consequent enhancement in the compensation awarded.

14. Learned Counsel for the Respondent No.1 raises a preliminary objection. He submits that the Appeal was delayed by 645 days in filing and thus the Appellant should not be granted interest for such period.

14.1 This contention is refuted by learned Senior Counsel for the Appellant. He submits that a Coordinate Bench of this Court had by its order dated 29.09.2015 allowed the application for condonation of delay filed by the Appellant in the facts of the case.

15. The record reflects that the Appeal was filed with a delay of 645 days, however this delay of 645 days was explained by the Appellant on 29.09.2015 stating that she is a senior citizen and was dependent on her counsel for following up the proceedings. It was contended that the Appellant was under the *bona fide* impression that the reference was pending and her counsel was diligently following up the filing of the present Appeal for enhancement of compensation. However, it was further contended that the Appellant was ill and admitted to hospital for heart related problems in March 2012 and that she remained seriously ill thereafter and it was only once that her condition got stable in March 2014,

⁴ Order dated 09.08.2017 in RPC No.1588/2017



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she filed the present Appeal.

16. A Coordinate Bench of this Court, by an order dated 29.09.2015, after examining these contentions of the Appellant and placing reliance on judgments of the Supreme Court in *Basawaraj and Ors. vs. The Special Land Acquisition Officer*⁵ and *Brijesh Kumar & Ors. vs. State of Haryana & Ors*⁶ as well as in *Dhiraj Singh(D) Tr. Lrs. Etc. Etc. vs. State of Haryana & Ors. Etc. Etc.*⁷, condoned the delay in filing the present Appeal.

17. Given the fact that the aspect of delay in filing the Appeal has already been adjudicated upon by this Court by the order dated 29.09.2015, which order has not been challenged by the Respondents, the objection raised by the Respondent No.1 cannot be sustained in the present case.

18. In addition, learned Counsel for the Respondent No.1 also contends that the Appellant has not paid the Court fee on the enhanced value of the subject land.

18.1 Learned Senior Counsel for the Appellant, on instructions, submits that so far as concerns the deficiency in Court fee, the Appellant undertakes to make good the same. The Appellant is bound down by the statement made by his Counsel.

19. It is the contention of the Appellant that the present case and the Bholanath case share an unmistakable resemblance, both in their factual matrix and the legal principles involved. The land in both cases was

⁵ AIR 2014 SC 746

⁶ (2014) 11 SCC 351

⁷ (2014) 14 SCC 127



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acquired for the plan development of Delhi and the Section 6 and Section 4 notifications of the LA Act were issued almost around the same time, only about two years apart.

20. A Coordinate Bench of this Court, by a judgment dated 23.03.2016 passed in **Bholanath 2** case, gave a finding that the market value is affixed at Rs.2,000/- per sq. yards as on 30.06.1978, enhanced from Rs.250 per sq. yard as fixed by the Reference Court. This judgment was upheld by the Supreme Court and has since attained finality. As stated above and reproduced in paragraph 5 above, the Reference Court while deciding the present case specifically allowed the adoption of evidence from the judgment of the **Bholanath** case, the market value of the subject land was enhanced from Rs.250/- to Rs.275/- per sq. yard after considering the progressive increase in value by 5% as was done in the **Bholanath** case.

21. It is not disputed that for the purposes of ascertaining the market value of the subject land, the evidence as led by the parties in the **Bholanath** case was allowed to be adopted by the learned Reference Court by an order dated 13.01.2012.

22. In view of the fact that the **Bholanath** case has been followed and applied to ascertain the value of the subject land in the present case and the compensation has been enhanced by this Court (and affirmed by the Supreme Court), the Appellant is entitled to the enhanced market value as determined in the **Bholanath 2** case.

23. As stated, the Appellant in the present case is seeking parity with the judgment in the **Bholanath 2** case which has affixed an amount of



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Rs.2,000/- per sq. yds. as the market value. In view of 5% increase in compensation, the prayer of the Appellant for grant of Rs.2,200/- per sq. yds. for the land is allowed. The Appellant is also granted interest and solatium in accordance with law.

24. The Appellant shall make payment of the deficient court fee within a period of four weeks. Subject thereto, the payment of arrears of the enhanced compensation shall be paid to the Appellant within a period of eight weeks thereafter.

25. The present Appeal is accordingly disposed of in the foregoing terms. All pending Applications stand closed.

26. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

FEBRUARY 4, 2025/jn/pa