

(2010) 02 DEL CK 0037
In the Delhi High Court
Case No : LA. APP. 613 of 2009

Anil Jain

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 04-02-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (2010) 02 DEL CK 0037

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Chaturvedi, for the Appellant; Sanjay Poddar and Ramesh Ray, for the Respondent

Judgement

Hima Kohli, J.—Pursuant to the order dated 08.12.2009, counsel for the appellant has placed on record a copy of the order dated 06.02.2008 passed by the Division Bench of this Court in a batch of matters, lead matter being LAA No. 135/2004 entitled Narender Lal Anand v. Union of India and Anr. He has also placed on record a copy of the judgment and decree dated 31.03.2009 passed by the Reference Court, pursuant to the aforesaid order of the Division Bench. Copies of the said judgments have been furnished to the counsel for the respondent/Union of India.

2. The present appeal is directed against a judgment dated 31.08.2004 passed by the Reference Court in respect of land situated in village Shahbad Daulatpur, subject matter of Award No. 1/1998-99, made pursuant to the notification issued u/s 4 of the Land Acquisition Act on 28.04.1995. Counsel for the appellant states that the present matter be remanded back to the Reference Court for being decided afresh on the same lines as observed in the judgment in the case of Narender Lal Anand (supra).

3. In the aforesaid case, the Division bench allowed the appeals of the land owners seeking enhancement of compensation held payable to them by the Reference Court and remanded the matters back to the Reference Court with

directions that the references shall be decided afresh after affording the parties an opportunity to lead further evidence in support of their respective versions. The operative paras of the aforesaid judgment are reproduced hereinbelow:

12. In the result, we allow these appeals; set aside the judgment and impugned orders passed by the reference court and remand the matters back to the reference court with the directions that it shall decide the references afresh after affording to the parties an opportunity to lead further evidence in support of their respective versions. To avoid any further confusion, we direct that the appellants shall within four weeks from the date they appear before the reference court file a list of witnesses and documents which they wish to produce in support of their claim for enhancement and produce all such documents and oral evidence on their own responsibility before the reference court on dates which the reference court shall fix for that purpose. Upon conclusion of the evidence by the appellants, the respondents may similarly file a list of witnesses and enclose documents with the same upon which they place reliance and take steps to examine such witnesses and prove such documents by adducing necessary evidence in accordance with law on dates to be fixed by the reference court. The reference court shall then examine whether the appellants land owners have any right to lead evidence in rebuttal and in case they have, permit them to do so in accordance with law.

13. Keeping in view the fact that the matter has been hanging fire for sometime past, the reference court endeavour to expedite the disposal of the references and ensure that final orders on the same are passed not later than six months from the date the evidence is concluded on both sides. The court shall, needless to say, lend such assistance to the parties as may be necessary by issuing dasti summons to them for service upon witnesses and summoning of documents.

14. We further hold that the appellants shall be entitled to refund of the court fee paid by them on the memos of appeal. We direct the issue of a certificate in their favour to enable them to receive back from the Collector the full amount of stamp book paid on the memo of appeal. The Registry shall do the needful in accordance with the rules on the subject. There shall be no order as to costs.

4. Counsel for the appellant states that the present matter be also remanded back as it pertains to the same village and the award and the notification are also identical. Counsel for the respondent/Union of India has no objection to the aforesaid submission.

5. Accordingly, the present appeal is disposed of on similar lines. The impugned judgment dated 31.08.2004 is set aside. The matter is remanded back to the Reference Court for it to be decided afresh after giving opportunity to the parties to lead evidence in support of their claims. While deciding the reference petition, the Reference Court shall bear in mind the order dated 08.12.2009 by which, the application for condonation of delay in filing the appeal preferred by the appellant (registered as CM 17793/2009) was allowed, subject to the condition that the

appellant would not be entitled to claim interest on the enhanced amount for the period of delay of 1822 days.

6. The parties are directed to appear before the Reference Court on 2nd March, 2010. In view of the fact that pursuant to the aforesaid judgment, the Reference Court has also decided the remanded matters afresh and passed a judgment dated 31.03.2009, the Reference Court is requested to expedite the trial in the present case as well and dispose of the same as expeditiously as possible and preferably within a period eight months from the date of hearing fixed before it.

7. Counsel for the appellant states that he may also be granted refund of the court fee, paid by him on the memo of appeal in view of the remand order, on the same lines as ordered by the Division Bench in the case of Narender Lal Anand (supra). Ordered accordingly. The Registry is directed to issue a certificate in favour of the appellant to enable him to receive back the court fee from the Collector as per the practice followed in that regard. No orders as to costs.

8. The appeal is disposed of.