

(2011) 08 DEL CK 0040

In the Delhi High Court

Case No : Writ Petition (C) 5445 of 2011 and CM No. 11094 of 2011

Beena Devi and Others

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30, 31

Citation : (2011) 08 DEL CK 0040

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : S.K. Kaushik and K.K. Kaushik, for the Appellant; None, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—The four Petitioners claim to be the daughters of a pre-deceased son of the Respondent No. 2 Shri Ramanand. The land, claimed to be belonging to HUF of Shri Ramanand is stated to have been acquired and it is stated that the compensation therefore is lying with the Respondent No. 1 LAC, North West, Kanjhawala, Delhi. The Petitioners contend that the Respondent No. 2 is of old age and of unsound mind and the other two sons of the Respondent No. 2 are attempting to appropriate the entire compensation unto themselves. This writ petition has been filed to restrain the release of the compensation to the Respondent No. 2.

2. The Petitioners, if have any claim to the compensation were/are required to make the same in accordance with law before the concerned authorities and if any dispute arises with respect thereto, to seek a reference of the same to the District Judge. Moreover if the Respondent No. 2 is stated 1/-to be a person of unsound mind, proceedings for appointment of the guardian of his person and property ought to have been initiated and without the procedure prescribed in law being taken, cannot restrain the release of compensation to the Respondent No. 2.

3. The counsel for the Petitioners has at this stage contended that the Petitioners

have in the present petition also claimed the relief of mandating the Respondent No. 1 LAC to refer the dispute to the District Judge.

4. However the question of reference u/s 18 of the Land Acquisition Act, 1894 would have arisen only if the Petitioners as interested persons had made a claim for compensation. No such claim was admittedly made. The counsel for the Petitioners however claims that the Petitioners are not seeking reference u/s 18 but under Sections 30 & 31 of the Act. However Sections 30 & 31 of the Act relating to apportionment would apply if the award were to be in the name of the Respondent No. 2 as well as the Petitioners; if that had been the case, that dispute of apportionment could have been referred. Here the dispute is qua/pertains to the award admittedly in the name of the Respondent No. 2 only and the claim of the Petitioners is on account of the Respondent No. 2 being not of sound mind. The remedy of the Petitioners is thus by way of petition/suit for appointment of guardian of the Respondent No. 2 and his property and not by way of this writ petition.

5. The counsel for the Petitioners at this stage states that the matter is listed next before the Respondent No. 1 LAC tomorrow i.e. 2nd August, 2011 for release of the amount. He seeks deferment thereof by seven days to enable the Petitioners to prefer appropriate remedies and to seek orders therein.

6. Even though the Respondent No. 2 has not been heard but it is deemed expedient to direct that the compensation if not already released be not released till 10th August, 2011. It is however made clear that this Court has not examined the merits of the claims of the Petitioners and this order is not intended to indicate to any other court/fora which the Petitioners may approach that this Court has found any prima facie case in favour of the Petitioners.

Save for the aforesaid direction, the petition is disposed of.

Dasti under signature of court master.