

(1996) 09 DEL CK 0074

In the Delhi High Court

Case No : Civil Revision Appeal No. 248 of 1980

Muni Lal

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 01-09-1996

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (1996) 5 AD 218 : (1996) 64 DLT 1

Hon'ble Judges : S.N. Kapoor, J

Bench : Single Bench

Advocate : Rajiv Bhardwaj, for the Appellant;

Judgement

S.N. Kapoor, J.

(1) "THIS revision petition has been filed against an order rejecting the application for review for enhancing compensation of the acquired land from Rs. 4,000.00 and Rs. 3000.00 of Block, A & B respectively to Rs. 7,100.00 per , f Bigha.

(2) In this case, none has appeared. It is also not clear as to whether the petitioner has complied with the order of restoration of revision petition dated 4th November 1992 by depositing cost of Rs. 500.00 .

(3) In this matter, the contention of the applicant/petitioner was that his 13 Bighas 6 bids was land located in Village Samalka, Delhi was acquired vide Award No. 70/722-73. He owned the above said land in equal share along with Tota Ram. He filed a reference petition Lac No. 357/73 (decided on 1st September, 1978) while Tota Ram filed Lac No. 382/73 (decided on 15th September, 1979). Though in both the cases similar evidence was led, yet in his case, he was awarded compensation at nearly half the rates as compared to the compensation awarded to his co-sharer Tota Ram. The judgment in his reference petition was delivered on the basis of wrong information furnished by the Counsel for Uoi that an appeal had been filed against the judgment of our High Court Ex. A1/11.

While in other reference petition it was informed that appeal had been dismissed. It is alleged that to the best of his knowledge, no appeal was filed against Rfa No. 89/79 and this being a judgment of a Division Bench, appeal could only be filed in the Supreme Court. Accordingly, an application for review was filed, before the learned Additional District Judge. It was rejected being hopelessly barred by time and there being no sufficient ground for condensation of delay, without giving any notice to Uoi on 15th October, 1979.

(4) From the revision petition, it is apparent that the petitioner was not sure whether any appeal against the dismissal of appeal in Rfa 89/79 Sehaj Ram v. U.O.I, was filed or not. However, from the judgment in Lac No. 360/73 Shiv Chand v. Union of India (LAC 382/73 Tota Ram v. Union of India was decided along with the said case by a common judgment) it is apparent that an appeal was filed and the Court was informed that the said appeal has also been dismissed.

(5) The judgments in both the cases (LAC No. 357/73 Muni Lal v. Uoi and Lac No. 382/73 Tota Rain v. U.O.I.) were delivered by Shri Harkishan Malik, Additional Distt. Judge, Delhi.

(6) The application for review was moved on 9th October, 1979 along with the application u/s 5 of the Limitation Act. Thus, it is apparent that the application was moved after one year. Article 127 of Limitation Act provides 30 days limitation for filing an application for review. Certified copy of the applications u/s 5 of the Limitation Act indicated that on 3rd October, 1979 the petitioner came to know of the judgment in the other case and non-pendency of any appeal against the judgment in Rfa No. 89/1978, after delivery of judgment in Union of India v. Sehej Ram, etc. It appears that his Counsel "found out all the details of the decision of the cases." It is also mentioned that thereafter his Counsel drafted the review application, and filed the same without any delay in filing the review application.

(7) The impugned order does indicate that the learned Additional District Judge had considered this application for condensation of delay also but rejected the review applications as well as application for condoning the delay by observing that there was no sufficient ground for condensation of delay.

(8) No doubt the compensation has been awarded at different rates in two matters, yet this Court cannot grant any relief to the petitioner, in view of. the judgment in Ramesh Singh (died) By LRs and Others Vs. State of Haryana and Others, . The following observations in this case are relevant for the present purpose:

"THE Civil Court gets jurisdiction to award compensation higher than the compensation made u/s II in respect of the acquired land only on reference u/s 18. It is not an ordinary Civil Court u/s 9 of the CPC but a Court constituted for the purpose of deciding the compensation for the acquired land under the Act on reference to an established Court. Under the Act even a Special Judge could

award compensation on reference u/s 18. The Execution Court cannot even amend the decree of inter parties. The only remedy for the inter parties would be to have the decree, as engrafted u/s 26, or modified or affirmed in appeal either u/s 54 or under Article 136 of the Constitution, as the case may be. The Execution Court, Therefore, is devoid of jurisdiction and power to amend the decree or to award compensation and statutory benefits to the petitioners. The order is a nullity. The High Court, Therefore, has rightly corrected obvious and palpable error of jurisdiction committed by the Additional District Judge, Gurgaon, i.e., the Execution Court in awarding compensation and statutory benefits. It is argued by Shri Rohtagi that the petitioners being co-owners, they are entitled to compensation on a parity with other co-owners and the denial thereof is violative of Article 14. We find no force in the contention. Having laid independent claims and sought reference u/s 18, the right and remedy are only as provided u/s 18 or on an appeal u/s 54 but not by way of getting imp leaded on the premise of a co-owner. Merely because one of the claimants had got higher compensation, others do not automatically get the same compensation unless the remedies, as provided under the Act, are availed of. One of the remedies under the Act is Section 28-A ; if it is available according to law. Determination of higher compensation in favor of some claimants or so-called co-owners and denial thereof to other claimants is not violative of Article 14 of the Constitution. The subject-matter having been regulated under the provisions of the Act, the right and remedy for higher compensation should be sought and had only under the Act. The principle of equality of Article 14 cannot be extended in that behalf."

(9) In view of the above, I do not find any force in this revision petition and dismiss the same. A copy of this order be sent to Learned Trial Court through Learned District Judge for information.