

(2017) 11 DEL CK 0633

In the Delhi High Court

Case No : Civil Writ Petition No. 226 Of 2017

Om Prakash

APPELLANT

Vs

Land Acquisitoion Collector (North) & Anr

RESPONDENT

Date of Decision : 07-11-2017

Acts Referred:

Constitution Of India, 1950 — Article 226
Code Of Civil Procedure, 1908 — Order 1 Rule 10
Land Acquisition Act, 1894 — Section 18, 30, 31
Delhi Land Reform Act, 1954 — Section 85

Citation : (2017) 11 DEL CK 0633

Hon'ble Judges : G.S.Sistani, J;V. Kameswar Rao, J

Bench : Division Bench

Advocate : Lohit Ganguly, Ajay Kumar, Yeeshu Jain, Jyoti Tyagi

Final Decision : Disposed Of

Judgement

G.S.Sistani, J

C.M. No.1036/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 226/2017

1. By way of this petition filed under Article 226 of Constitution of India, the petitioner prays for issuance of a direction to respondent no.1 to consider and decide the application filed by the petitioner under Section 30 of the Land Acquisition Act, 1894 and dispose of the same within a time bound frame in accordance with law.

2. Learned counsel for the petitioner submits that one Sis Ram (the predecessor of the petitioner) was in possession of the land comprised in Khasra no.81/19 Min. (2-8) situated at the revenue estate of village Mohammadpur (Narela)

(hereinafter referred to as 'subject land'). It is also the case of petitioner that in the year 1989, Late Sis Ram filed a petition under Section 85 of the Delhi Land Reform Act, 1954 for declaration of his Bhumidari rights. Sis Ram expired on 10.01.1996. Thereafter, an award bearing No.24 of 2003-04 was made on 29.01.2004. Possession of the land was taken on 24.06.2004 from the petitioner and his family. In the year 2004, interested persons filed various applications under Sections 18, 30, 31 of the Land Acquisition Act, 1894, as a result of which, a reference was made to the Court of ADJ, Tis Hazari, Delhi and the matter was registered as LAC case No.58/2004 titled as Union of India v. Hari Parkash. This case is still pending. It is pleaded that on 04.02.2005, the Revenue Court of SDM closed the petition under Section 85 of the Delhi Land Reform Act, 1954 as the possession of the subject land had already been taken. The petitioner and his family filed an application under section 30 of the Land Acquisition Act, 1894 before the Land Acquisition Collector (North-West) for a reference to the Court where the said land acquisition reference LAC case No.58/2004 was pending. The Court of ADJ, Tis Hazari, Delhi where LAC case No.58/2004 was pending passed an order on 07.09.2007 and allowed the application under Order 1 Rule 10 CPC filed by the petitioner and his family members. But the order dated 07.09.2007 allowing the application under Order 1 Rule 10 has been challenged by some interest parties by filing a C.M. (M) No.1556/2007 before this Court, which is still pending.

3. Counsel submits that in the year 2013, the petitioner exercised his independent remedy by filing an application seeking information on the status of the application filed in the year 2007 under Section 30 of Land Acquisition Act, 1894. A reply to this application was received confirming that no records are available or traceable, meaning thereby the same might have been lost. The petitioner filed a fresh application on 20.05.2014 under section 30 of the Land Acquisition Act, 1894 for reference to the Court of learned ADJ where LAC case No.58/2004 was pending. However, till date, the said application has neither been considered nor decided.

4. Notice in this writ petition was issued on 11.01.2017. No reply has been filed till date.

5. Mr. Jain submits that having regard to the fact that the petitioner has already been impleaded in the reference, which is already pending, the second reference under Section 30 would not lie.

6. We have heard learned counsel for the parties. Since, the prayer made in this petition is limited only to a direction to the respondent to consider and decide the application filed under Section 30 of the Land Acquisition Act, 1894, without expressing any opinion on the merit of the case, we direct the Land Acquisition Collector to consider the application filed by the petitioner under section 30 of the Land Acquisition Act, 1894.

7. Accordingly, we allow this petition. Respondent no.1 is directed to decide the

application of the petitioner in accordance with law within a period of 60 days from today. We make it clear that we have not expressed any opinion on the merit of the case and the Land Acquisition Collector will decide the matter on merit in accordance with law unaffected by any observation made in this order. All rights, contentions and objections of the respondents are kept open.

8. The petition stands disposed of.

CM.APPL 13662/2015(stay)

9. The application stands disposed of in view of order passed in writ petition.