

(2016) 10 DEL CK 0028
In the Delhi High Court
Case No : LA.APP. No. 364 of 2015

Rai Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-10-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151, Section 152, Section 153
Land Acquisition Act, 1894 — Section 54

Citation : (2016) 234 DLT 581

Hon'ble Judges : Mr. Valmiki J. Mehta, J.

Bench : Single Bench

Advocate : Mr. H.M. Singh, Advocate, for the Appellant; Ms. Jyoti Tyagi, Advocate, for the Respondent No. 1; Mr. Kunal Sharma, Advocate, for the Defendant No. 2

Final Decision : Allowed

Judgement

Valmiki J. Mehta, J. (Oral)—This first appeal under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") is essentially filed against the Judgment of the LAC Court dated 20.4.2005 whereby Sh. Rai Singh, Sh. Sarup Singh and Sh. Ishwar Singh were held not entitled to compensation because they had failed to show that they were the owners of the land acquired by the Government. The first appeal also challenges the Order dated 1.12.2014 dismissing the application filed by the appellants under Sections 151 to 153 of the Code of Civil Procedure, 1908 (CPC) for correction of the record and the judgment for showing appellants as the owners of the acquired land.

2. The claim petition of the appellants Sh. Rai Singh, Sh. Sarup Singh (since deceased and represented by his legal heirs) and Sh. Ishwar Singh was dismissed inasmuch as the original statement of the collector sent to the LAC court under Section 19 of the Act did not contain the correct description of Sh. Rai Singh, Sh. Sarup Singh and Sh. Ishwar Singh as sons of Sh. Lahri. The names of these persons were depicted as sons of Sh. Hari Singh. Appellants who

are Sh. Rai Singh, legal heirs of late Sh. Sarup Singh and Sh. Ishwar Singh made an error in failing to notice that in the original statement under Section 19 of the Act furnished by the Collector their parentage instead of being given of Sh. Lahri was wrongly given as of Sh. Hari Singh. On account of the mistake in the Section 19 statement, the LAC Court vide its Judgment dated 20.4.2005 did not grant any compensation to the appellants by holding that appellants are not shown as the owners of the acquired land. Appellants therefore on coming to know of the mistake in the statement under Section 19 filed an application in LAC Court in September, 2009 for correcting the judgment and record under Sections 151 to 153 CPC which was passed on the mistaken reference under Section 19 of the Collector wrongly showing the parentage of the appellants as of Sh. Hari Singh instead of Sh. Lahri. This application has been dismissed by the LAC Court vide its impugned Order dated 1.12.2014.

3. A reference to the record of the trial court shows that the Collector has filed a revised statement under Section 19 of the Act on 5.10.2011 whereby effectively the Collector has admitted his mistake because appellants are shown in this revised statement as sons of Sh. Lahri and who have been paid compensation of Rs. 96,172.23/- as per the Award i.e the ownership of the appellants of the acquired land is not in dispute because they have been given compensation for the acquired land of Rs. 96,172.23/-.

4. In view of the fact that there is a revised statement under Section 19 by the Collector on 5.10.2011 showing that the appellants were owners of the acquired land, therefore, actually the impugned Order dated 1.12.2014 ought to have corrected the original Judgment dated 20.4.2005 in exercise of powers under Sections 152 and 153 CPC and which provisions deal with scenarios which arise as found in the present case only because of mistakes which have happened in a case. These Sections provide both for correction of the judgment as also for the correction of the proceedings which led to passing of the judgment.

5. Accordingly, the impugned Order dated 1.12.2014 is set aside and it is held that the appellants being the legal heirs of Sh. Lahri, and who have been paid an amount of Rs. 96,172.23/- as compensation for acquired land by the Collector, therefore the appellants will also be entitled to compensation at the same rate as given to the other owners of acquired land as per the Judgment of the LAC Court dated 20.4.2005. Appellants will also be entitled to appropriate and proportionate statutory benefits.

6. Appeal is accordingly allowed and disposed of in terms of the aforesaid observations, leaving the parties to bear their own costs.