

(2021) 10 DEL CK 0178

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 102 Of 2020

Rakesh Gupta & Ors.

APPELLANT

Vs

Union Of India & Anr.

RESPONDENT

Date of Decision : 26-10-2021

Acts Referred:

Citation : (2021) 10 DEL CK 0178

Hon'ble Judges : Amit Bansal, J

Bench : Single Bench

Advocate : L.B. Rai, B.S. Shukla

Final Decision : Disposed Of

Judgement

Amit Bansal, J

CM No. 3558/2020 (for exemption)

1. Allowed, subject to all just exceptions.

2. The application is disposed of.

CM(M) 102/2020

3. The present petition has been filed on behalf of the seven petitioners impugning the order dated 4th September, 2019 passed by the Additional District Judge - 1, North, Delhi in Misc. DJ No. 31/2019 in LAC No. 1565/2016, whereby the application filed on behalf of the petitioners for revival/re-opening of the reference and for deciding the claims of the petitioners has been dismissed.

4. Vide the impugned order dated 4th September, 2019, the learned Additional District Judge (ADJ) has rejected the case of the petitioners for re-opening of the reference on the grounds that, (i) given that the file was consigned in 2008, the legal representatives of late Sh. Lalita Prasad approached the Court in 2013 and 2017; (ii) till the year 2008, parties had been given multiple opportunities to prove their claims, and the reference was deemed to have been answered; (iii)

the said reference had been instituted 35 years ago and had already been answered and re-opened on earlier occasions; and (iv) no exceptional case had been demonstrated on behalf of the petitioners for re-opening of the reference and no reasons had been given by the petitioners for non-appearance for the period from 2008 to 2013, and even prior to 2008 when the case was still alive.

5. The counsel for the petitioners submits that, (i) land belonging to Bhagwan Land and Trading Corporation was acquired through Award No.19/83-84, handed over to the Delhi Development Authority, and the claim for compensation was filed by Bhagwan Land and Trading Corporation through late Sh. Lalita Prasad; (ii) all the seven petitioners are related to each other and are the legal representatives of late Sh. Lalita Prasad; (iii) since, there was a dispute with regard to claims amongst the various co-owners in respect of the acquired land, the matter was referred to the ADJ to decide the respective claims of the co-owners; (iv) the reference was filed in the year 1984 and vide judgment dated 31st August, 1989, the claim of the respondent no.2 Gaon Sabha was rejected and thereafter, individual claims of various co-owners were being considered; (v) the compensation in respect of the acquired land was deposited before the ADJ; (vi) upon the legal representatives of late Sh. Lalita Prasad making applications for disposal of the claims filed earlier by late Sh. Lalita Prasad, vide the order dated 21st February, 2013, the ADJ held that the claims would be decided on merits and posted the matter for recording the evidence of the legal representatives; (vii) due to the counsel for the legal representatives not pursuing the case and due to inter se disputes between the legal representatives of late Sh. Lalita Prasad, no evidence could be led on behalf of the legal representatives; (viii) subsequently, the dispute between the legal representatives was resolved and accordingly, they also joined proceedings before the ADJ; and (ix) accordingly, an application for revival/re-opening of the reference was filed by the petitioners for deciding their claims, from the dismissal of which, the present petition arises.

6. The respondent no.1 Union of India, Ministry of Housing and Urban Affairs has filed a short affidavit stating that they are only a proforma party and have no role to play in the present proceedings.

7. I have heard the counsel for the parties and perused the impugned order passed by the ADJ. Undoubtedly, there has been a significant delay on the part of the petitioners in getting their claims decided and even the application for re-opening of the reference was filed after much delay. However, taking into account the facts and circumstances of the case, and that there appear to be no other claims made in respect of the compensation, which has already been deposited before the ADJ, this Court is of the view that one final opportunity may be given to the petitioners to establish their claims before the ADJ, subject to payment of costs.

8. Accordingly, the present petition is disposed of with a direction that the ADJ shall give one final opportunity to the petitioners to lead their evidence in order

to establish their claims, subject to the petitioners depositing costs of Rs.20,000/- with the Delhi State Legal Services Authority within two weeks from today.

9. The petitioners shall appear before the learned ADJ on 15th November, 2021 and on the said date, the ADJ shall fix the date for the petitioners to lead evidence in support of their claims.

10. It is made clear that no further opportunity would be given to the petitioners in this regard.

11. The petition stands disposed of in the above terms.