

(2006) 08 DEL CK 0013

In the Delhi High Court

Case No : Regular First Appeal No's. 352 and 353 of 1981

Rama Shankar and Another

APPELLANT

Vs

Mukhtiare and Another
 Inder Singh and Another Vs
Kishori and Another

RESPONDENT

Date of Decision : 25-08-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 4
Delhi Land Reforms Act, 1954 — Section 11, 13, 154, 6
Land Acquisition Act, 1894 — Section 30, 31, 4

Citation : (2007) 98 DRJ 517

Hon'ble Judges : Mukul Mudgal, J;Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : M.K. Vashisht, for the Appellant; Sarabjit Sharma and R. Veena, for the Respondent

Final Decision : Dismissed

Judgement

S. Muralidhar, J.

CM No. 10940/2006 & 10941/2006 (under Order 22 Rule 4 CPC)

The applications are allowed. The LR's of the respondent No. 1 in each of the appeals are permitted to be brought on record. The amended memo of parties will be filed in two weeks.

The applications stand disposed of accordingly.

RFA Nos. 352/1981 & 353/1981

1. These appeals are directed to against the impugned judgments and orders dated 25th September, 1981 passed by the Additional District Judge, Delhi disposing of two references being LAC Nos. 83/1980 and 84/1980 under Sections 30/31 of the Land Acquisition Act, 1894 ("Act").

2. The facts leading to the filing of the present appeals are that in respect of land

admeasuring 93 bighas situated in village Khanpur, which was notified for acquisition for a public purpose by a notification dated 12.4.1972 u/s 4 of the Act, an award No. 15/1973-74 came to be made on 26.6.1973. The total compensation fixed, including solarium and interest, was Rs. 1,07,439.43. In respect of a certain portion of the land, the total compensation payable for which was Rs. 16,253.68, four interested persons namely Shri Rama Shankar and Shri Inder Singh, the appellants herein, and Shri Kishori and Shri Mukhtiare, Respondents No. 1 in each of the appeals filed their claims. The above dispute in relation to apportionment was referred by the Land Acquisition Collector to the learned Additional District Judge in terms of Sections 30/31 of the Act. The cases were registered as LAC Nos. 83/1980 and 84/1980 and were disposed of by the impugned judgment and order dated 25th September, 1981. By the impugned judgment and order, the learned Additional District Judge held that the appellants herein, Shri Rama Shankar and Shri Inder Singh had no right to claim compensation. Consequently the compensation was ordered to be paid to Shri Kishori and Shri Mukhtiare, respondent No. 1 in each of the appeals.

3. We have heard the learned Counsel for the parties. We have been taken through the impugned order as well as records of the case. The short point involved here is whether the respondent No. 1 in each of the appeals were entitled, as on the date of acquisition of the land in question, to be paid the compensation in terms of the Act.

4. The evidence on record which has been analyzed in detail by the learned Additional District Judge reveals that respondent No. 1 in each of the appeals were declared bhumidars and remained so till the land was acquired by the Government in the year 1973-74. The learned Additional District Judge has relied upon the following pieces of evidence adduced by the respondent No. 1:

a) In Naqsha Muntzamins, Kishori has been shown to be owner of Khasra Nos. 25/2/2 (2-18), 3/1 (0-8) and Mukhtiare as owner of Khasra numbers 26/18/2 (3-5), 19/1-3 (1-15); 20/1 min (0-16); 21/1 min (2-4); 22/1-3 (1-14) 23 (-0-16); 39/i/i (1-19); 2/2 (2-7); 26/18/1 (1-4); 19/2 (3-1), 21/2 (0-5) 22/2 (3-2) 39/1/2 (1-15) and 2/1 (1-9).

b) Bhumidari certificates No. 2 and K-2 were issued to Kishori and Mukhtiare and they have been in possession and cultivating the land much before 1952 till it was acquired by the government in the year 1973-74. The possession was taken from them.

c) In his statement copy K.7 dated 27.8.1966 before the SDM/Revenue Officer Inder Singh admitted that Kishori was in possession of the land since long and though it was allotted to Rama Shankar, the possession before and after consolidation was that of Kishori.

5. The learned Additional District Judge also found that Shri Kishori and Shri Mukhtiare continued in possession even after the mortgage in respect of the land came to end in 1952. Therefore, as on the date of the acquisition of the land

they were the declared bhumidars and were in possession of the land in question.

6. The learned Additional District Judge examined the legal consequences of the changes brought about to the nature and ownership of the land after the enactment of the Delhi Land Reforms Act, 1954 (DLRA). Consequent upon the enforcement in Delhi of the DLRA on 20.7.1954, the ownership of agricultural land by proprietors was abolished. Under Sections 11 and 13, the proprietors would become Bhumidars in respect of lands which were in their khud kasht or sir whereas the tenants would become Bhumidars in respect of their holdings. The learned Additional District Judge, after analyzing the provisions of the DLRA, concluded that the effect of Sections 6, 11 and 13 read with Section 154 was that on the enforcement of the DLRA, tenants and sub tenants or lessees under the Bhoodan Yojna Act ceased to continue as such and became bhumidars or asamis in respect of their holding. Lands which were not holdings of either the proprietor or any other person vested in Gaon Sabha. Reliance was placed on the decision of the Hon"ble Supreme Court in Hatti v. Sunder Singh AIR 1971 SC 320.

7. We are in complete agreement with the above analysis of the DLRA by the learned Additional District Judge. After examining the provisions of the DLRA, we are satisfied that the question relevant for the purposes of payment of compensation for acquisition of the land in the instant case would have to be answered with reference to the records of the case which would indicate who were the bhumidars and who were in possession of the land in question. There can be no manner of doubt, as rightly found by the learned Additional District Judge, that in the instant case Kishori and Mukhtiare were the declared bhumidars and remained so till the land was acquired by the Government in the year 1973-74. Also, the possession was taken from them. It is they who would be entitled to be paid compensation.

8. We are of the considered view that the impugned judgment and the order of the learned Additional District Judge does not call for any interference. We accordingly find no merit in these appeals.

9. It is submitted by the learned Counsel for respondent No. 1 that there are certain proceedings in connection with the claim for bhumidari rights by the appellants pending before the learned SDM. The learned Counsel for the respondent No. 1 is permitted to produce this order before the SDM, as it is the plea of the respondent No. 1 that the dispute pending before the SDM would become infructuous with the passing of this judgment.

10. Before concluding we may advert to a related aspect of these appeals. At the time of their admission by this Court on 19.11.1981, the amount of compensation involved in the present cases, in the sum of Rs. 16,253.68, was permitted to be withdrawn by the respondent No. 1 in each of the appeals upon their furnishing security to the satisfaction of the trial court. However, on account of their weak economic status, neither of these respondents could furnish security and withdraw the said amount. Resultantly, it appears that the said

amount was not disbursed to the respondents and instead stood deposited with the Additional District Judge vide voucher No. 19 dated 15th September, 1973. We expect that the learned Additional District Judge would have kept the said amount in a fixed deposit in a nationalised bank which would have enabled the accrual of interest on the said amount. The amount of Rs. 16253.68 is now directed to be disbursed to the LRs of Shri Mukhtiare and Shri Kishori, respondent No. 1 in each of the appeals along with interest accrued thereon within a period of four weeks from today and in any event not later than 30th September, 2006. Considering the fact that the matter has been pending here for 25 years, and the LRs of the respondent No. 1 would themselves be aged persons, as a special case, we request the learned District Judge to issue prompt orders to ensure that the said amount is in fact released to the said parties before the said date.

11. There is yet another aspect that needs to be considered. The learned Counsel for the parties are not clear whether in fact the said amount deposited with the learned Additional District Judge would have been kept in fixed deposit. If this apprehension is correct then it is indeed unfortunate. Litigants ought not to be denied the interest on the amount to which they are entitled, for a long period of 25 years, due to the failure of the Court to ensure that the money earns interest. We think it appropriate to direct that whenever the orders are passed by this Court requiring the deposit of certain sums in the trial court, particularly in civil proceedings involving a disputed claim for money, such sums should invariably be directed to be kept in a short-term deposit of six months with a nationalised bank and kept renewed for same period till further orders of the Court. This direction, if not already issued by the learned District Judge, should now be issued as a practice direction by the learned District Judge so that litigants are not deprived of the interest that the amount is likely to earn. The amount ultimately directed to be paid to the litigant would include the interest amount earned during the pendency of the litigation. We request the learned District Judge to issue such a practice direction to all the subordinate Courts at the earliest, preferably within four weeks from today. If such directions already exists, it may be reiterated afresh.

12. With the above directions and observations, these appeals are dismissed with costs of Rs. 5000/- which shall be paid by the appellants to the respondent No. 1 in each of the appeals not later than 30th September, 2006.

13. The decree be drawn accordingly.

14. A certified copy of this judgment may be sent by the Registry to the learned District Judge, Delhi not later than 4-9-2006, for issuance of appropriate orders to implement the directions contained in paras 10 and 11.