

(2006) 04 DEL CK 0135

In the Delhi High Court

Case No : CM No's. 5369 and 5370 of 2005, 6683 and 6684 of 2005 in WP (C) 2489 of 1986

Ran Singh and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-04-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 3, Order 47 Rule 1, Order 9 Rule 4, 151
Delhi Development Act, 1957 — Section 22(1)
Land Acquisition Act, 1894 — Section 16, 4
Limitation Act, 1963 — Section 5, 5A

Citation : (2006) 04 DEL CK 0135

Hon'ble Judges : Swatanter Kumar, J; Madan B. Lokur, J

Bench : Division Bench

Advocate : S.K. Mishra and S.K. Sharma, for the Appellant; S.S. Dalal, for the Respondent

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—By this order, we would dispose of four applications filed by the petitioners in the above writ petition.

2. CM No. 5369/2005 has been filed under Order 9 Rule 4 of the CPC for recalling the order dated 10.3.2005; CM No. 5370/2005 is an application u/s 5 of the Limitation Act praying for condoning the delay in filing CM 5369/2005; CM No. 6683/2005 has been filed under Order 47 Rule 1 read with Section 151 of the CPC for reviewing the order dated 10th March, 2005 and CM No. 6684/2005 is again an application u/s 5 of the Limitation Act for condoning the delay in filing CM No. 6683/2005.

3. The petitioners filed a writ petition in the year 1986 questioning the correctness of the notification issued u/s 4 of the Land Acquisition Act (hereinafter referred to as "the Act") dated 27.1.84 in relation to the acquisition

of land in the revenue estate of village Palam. Besides issuance of a declaration u/s 6, an award was made by the Collector in relation to the acquired land being award No. 157/86-87. The challenge in the writ petition was to the notification as well as to the award made by the Collector. This writ petition was dismissed by a Division Bench of this Court vide order dated 10.3.2005 in view of the detailed reasons given in the cases of Smt. Chatro Devi v. Union of India and Ors. WP(C) 424/1997 decided on 3.3.2005 and the judgment of the Supreme Court in the case of Anil Hada Vs. Indian Acrylic Limited, . As the counsel for the petitioners was not present on that date, the present applications have been filed for recalling and setting aside the order dated 10th March, 2005.

4. Both CM Nos. 5369, 6683/2005 are barred by time. In the application filed by the petitioners u/s 5 of the Limitation Act, no reason whatsoever has been stated which could be termed as a sufficient cause for condoning the delay in filing these applications. It is stated that after the demise of petitioner No. 1 Sh. Ran Singh, an application under Order 22 Rule 3 for bringing the LRs on record was filed and the petitioners were under bonafide impression that the said application was under consideration and only thereafter the matter would be heard. According to the applicants, they came to know on 23.4.2005 about the dismissal of the petition. This excuse is really a lame and flimsy one. Firstly Ran Singh's other brothers are also petitioners in the writ petition. Secondly it hardly stands to reasoning that even if the applicants were under the impression that the application for bringing the LRs on record was to be heard, why would the petitioners or their counsel not appear before the court. Furthermore, this matter was on the regular board of the court and there is no Explanation as to why the counsel did not appear before the court on that date.

5. In view of the above circumstances, we are of the considered view that no cause much less a sufficient cause has been shown for condensation of delay in filing the review applications. The said applications being without merit are dismissed.

6. Despite our above conclusion, we may even otherwise refer to the merit of the review application/recalling application filed under Order 47 Rule 1 read with Section 151 CPC and Order 9 Rule 4 of the CPC. Both these applications are without merit and are frivolous. It was noticed in the order dismissing the petition that there is no averment in the writ petition that the petitioners had filed objections u/s 5A of the Act objecting to the acquisition in any form or manner. In the entire writ petition even this is not stated as to why the said objections were not filed. All that is stated is that the petitioners being villagers were ignorant of what land was being acquired. Not only this that no objections u/s 5A were filed by the petitioners but also at no point of time they took any appropriate steps to raise any challenge to the acquisition. The present writ petition was filed in the year 1986. According to the respondents and this fact was specifically pleaded in the affidavit filed on behalf of the respondents that the possession of the acquired land had been taken vide kabza karwahi report

dated 14.10.86 and the land had been placed at the disposal of the DDA vide notification dated 30.10.86 for development in terms of Section 22(1) of the DDA Act. In other words, the possession of the land had been taken and it vested in the Government in terms of Section 16 of the Act.

7. These being the facts on record, the petitioners were not entitled to any relief in view of the various judgments referred to in the order dated 10th March, 2005. In any case once the land has vested in the Government free from all encumbrances, the acquisition is complete and also in terms of the judgment of the Supreme Court in the case of State of Rajasthan and Others Vs. D.R. Laxmi and Others, , the petitioners are not left with any right to question the correctness or legality of the notification u/s 4 of the Act.

8. Consequently, all the four applications are dismissed while leaving the parties to bear their own costs.