

(2018) 02 DEL CK 0544

In the Delhi High Court

Case No : Civil Miscellaneous (Main) No. 1042 Of 2016

Surjan (Deceased) Thr Lrs & Ors

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 22-02-2018

Acts Referred:

Code Of Civil Procedure, 1908 — Section 151, 152, 153
Land Acquisition Act, 1894 — Section 18

Citation : (2018) 02 DEL CK 0544

Hon'ble Judges : R.K.Gauba, J

Bench : Single Bench

Advocate : Smriti Vashisht, Piyush Rayal, Sanjay Kumar Pathak, K. Kaomudi
Kiran Pathak, Sunil Kumar Jha, Kushal Raj Tater, Pawan Mathur

Judgement

R.K.Gauba, J

1. The order under challenge was passed by the Additional District Judge, South-West (ADJ) on 23.05.2016 on the file registered as M.No.15178/16

on the application of the petitioner under Sections 151/152/153 of the Code of Civil Procedure, 1908 (CPC) for correction of the judgment and decree

dated 03.03.2005 passed by the ADJ in proceedings arising out of reference under Section 18 of Land Acquisition Act, 1894. It appears that the

matter in so far as the petitioner is concerned related to grant of compensation in respect of land acquired to the extent of 85 bigha 03 biswas. It is his

grievance that compensation only for the land measuring 69 bigha 17 biswas has been paid to him. His request is that the compensation for the

remaining land measuring 11 bigha 13 biswas should also be included in the said judgment and decree dated 03.03.2005.

2. The learned ADJ dismissed the application observing that the Land Acquisition

Collector (LAC) had not taken over the possession of the land

measuring 11 bigha 13 biswas, referring in this context to lands comprised in khasra Nos.32/22, 39/2, 39/3, 39/8 and 39/1 in village Kakrola. The

petitioner relies upon certificate dated 30.03.2005 which, inter alia, reveals that lands comprised in khasra Nos. 39/2 (2-9), 3(4-16) and 9(4-8) had been

taken over by Naib Tehsildar, Land and Building Department in the office of LAC, South-West District, though possession of certain other lands

mentioned in the note below the said certificate was not taken over. The impugned order does not reveal any reply having been taken from the LAC

on this aspect.

3. In above view, the impugned order is set aside and the matter is remitted to the Additional District Judge who shall call for a clear report from the

LAC concerned and make a fresh decision on the matter.

4. The parties shall appear before the learned ADJ on 5thth April, 2018.