

(2018) 12 DEL CK 0179

In the Delhi High Court

Case No : L.A.APP 192 Of 2018, Civil Miscellaneous Application No. 38815-17 Of 2018

Union Of India

APPELLANT

Vs

Kartar Singh & Anr

RESPONDENT

Date of Decision : 17-12-2018

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6, 18, 18A, 19, 23(1A), 23(2), 28

Citation : (2018) 12 DEL CK 0179

Hon'ble Judges : Anu Malhotra, J

Bench : Single Bench

Advocate : Yeeshu Jain, Jyoti Tyagi

Final Decision : Dismissed

Judgement

ANU MALHOTRA, J

CM.No. 38816/18 (Condonation of delay)

1. Vide the present application, the appellant seeks condonation of 104 days delay in filing the appeal. For the reasons explained in the application and in the interest of justice, the said delay is condoned.

The application is disposed of.

L.A.APP 192/2018 & CM APPL.38815 & 38817/2018

2. The appellant i.e. the Union of India vide the present appeal L.A.APP.192/2018 assails the judgment and decree dated 08.03.2018 of the learned Additional District Judge-01, Rohini in LAC No.903/2016 qua award No.3/2002-03 vide which the respondent no.1 arrayed to the present appeal, Mr. Kartar Singh s/o Sh. Sube Ram was on a reference made by the Land Acquisition Collector under Section 18 of the Land Acquisition Act, 1894 by Sh. Kartar Singh (the respondent no.1 herein) whose tract of land measuring 345 bigha 2 biswas of Village Khera Khurd, Delhi was acquired by the Government for Rohini Residential Scheme

Phase-IV & V with the petitioner being the co-owner/co-bhumidar of the land bearing in khasra no. 100,107 and 108 23(3-04), 10(4-17), 3(4-12), 4(4-10), 5(2-02), 6(4-16), 7(4-16), 8(4-12) total area 33 bighas and 9 biswas, having 1/2 share of village Khera Khurd, situated within the Revenue Estate of Village Khera Khurd, Delhi with the notification under Section 4 of the Land Acquisition Act, 1894 dated 27.10.1999 No.F.10(29)96/L&B/LA/11394 having been issued with the declaration under Section 6 of the said enactment having also been issued on 03.04.2000 vide notification No.F.10(29)/96/L&B/LA/20, the Land Acquisition Collector determined the market price of the acquired land as being Rs.12.16 lakhs per acre, with which Sh. Kartar Singh was dissatisfied and thus made a petition under Section 18 of the Land Acquisition Act, 1894 whereupon vide the impugned judgment dated 08.03.2018, the learned ADJ-01, North assessed the fair market value of the land in question at being Rs.12,96,455.89/- per acre for the acquired land as per statement under Section 19 of the Land Acquisition Act, 1894, and granted a statutory additional amount at the rate of 12% per annum on the fair market value under Section 23(1A) of the Land Acquisition Act, 1894 from the date of notification under Section 4 of the said enactment till the date of the award or dispossession whichever was earlier and also granted solatium under Section 23(2) of the Land Acquisition Act, 1894 at the rate of 30% on the enhanced amount of market value.

3. The impugned judgment indicates that the respondent no.1 to the present appeal as petitioner before the Reference Court had whilst seeking enhancement of compensation conceded that the award be passed in terms of the judgment of this Court in "Prakash Chander Vs. Union of India" in LAC 665A/2008 and had sought that the same enhancement which was granted in the said judgment be granted to him.

4. The land in question falls within Village Khera Khurd as was the land in the case "Prakash Chander Vs. Union of India" in LAC 665A/2008, award No.3/2002-03 decided on 10.01.2013, vide which the market value of the land therein on the basis of the judgment of this Court in "Hem Chander Malik Vs. Union of India" in LA 358/07 decided on 26.09.2011 was disposed of vide which the market value at the rate of Rs. 12,96,455.89/- per acre was determined. The judgment of this Court in "Hem Chander Malik Vs. Union of India" (supra) related to village Shahbad Daulatpur acquired vide notification issued under Section 4 of the Land Acquisition Act, 1894, inter alia dated 27.10.1999 as was the acquisition of the land in "Prakash Chander Vs. Union of India". In the instant case i.e. LA.APP 192/2018 also, it is the same notification dated 27.10.1999 which is involved qua notification under Section 4 of the Land Acquisition Act, 1894 in relation to the area of Village Khera Khurd as was in the case "Prakash Chander Vs. Union of India".

5. Through the appeal, the appellant i.e. Union of India sought to submit that the learned Reference Court had erroneously relied on the verdict in "Prakash Chander Vs. Union of India" in LAC 665A/2008 which the appellant had sought to

assail before the Hon'ble Apex Court and submitted further that the land in reference had been acquired for public purpose, for public expenses and thus enhancement of the market value by the Reference Court from Rs.12.16 lakhs per acre as determined by the Land Acquisition Collector to Rs.12,96,455.89/- per acre as being the market price was based on an imaginary ground and would thus hamper public interest.

6. As observed hereinabove, the notification vide which the land of the petitioner was acquired is the same notification as in LAC 665A/2008 dated 27.10.1999 as issued under Section 4 of the Land Acquisition Act, 1894 which was the same notification as in "Hem Chander Malik Vs. Union of India" adjudicated by this Court in LAC 358/2007.

7. There is thus no merit in the appeal. The present appeal L.A.APP 192/2018 is dismissed. CM APPL. 38815/2018, an application seeks a stay of the operation of the impugned judgment/decreed dated 08.03.2018, which is dismissed as the amount due has not been deposited in terms of order dated 24.09.2018.

CM APPL. 38817/2018 (Extension of time)

8. This is an application filed on behalf of the appellant seeking extension of time in filing the Court fee with supporting affidavit. Deficiency in Court fee has not been made up by the appellant, which also necessitates the dismissal of the appeal, which as observed hereinabove has been dismissed.