

(2006) 04 DEL CK 0141
In the Delhi High Court
Case No : L.A. (APP) No. 795 of 2005

Union of India (UOI)

APPELLANT

Vs

Shri Nihal Singh and Another

RESPONDENT

Date of Decision : 27-04-2006

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 4, 6, 8(4)
Limitation Act, 1963 — Section 5

Citation : (2006) 04 DEL CK 0141

Hon'ble Judges : Swatanter Kumar, J;S.L. Bhayana, J

Bench : Division Bench

Advocate : Sanjay Poddar, for the Appellant; Gaurav Sarin, for DDA, for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—By this judgment we would dispose of the above noticed five appeals. All these appeals have been preferred by Union of India against the award judgment dated 27.4.05. All these appeals are barred by time and the Union of India has filed CM Nos.15905/05, 16896/05, 16915/05, 17830/05 and 17834/05 in these appeals for condoning the delay of nearly 63-101 days in filing the appeals.

2. The Government had issued a notification u/s 8(4) of the Land Acquisition Act (hereinafter referred to as the Act) for acquiring land in the revenue estate of village Kakrola on 6.6.91 in furtherance to which declaration u/s 6 of the Act was issued on 6.12.91. The land was acquired for a public purpose namely "Planned Development of Delhi". The Collector made his award u/s 11 of the Act being Award No. 1/93-94 on 2.4.93. The Collector had awarded compensation to the claimants @ 96,875/- per bigha for category A land which was the cultivable land or under agricultural or Horticulture land, Rs. 38,000/- per bigha for category B which was banjar land, and Rs. 32,000/- per bigha for category C which was a land having large pits ranging from 5 feet to 20 feet of depth.

3. The claimants being dissatisfied from the award of the Collector prayed for references to be made to the Court of the learned District Judge in accordance with provisions of Section 18 of the Land Acquisition Act. The references were dealt with and having permitted the parties to lead evidence, the Reference Court while relying upon the order of the Reference Court dated 6.5.03 passed in an earlier reference in relation to the same notification and relying upon the case of Ved Prakash and Ors v. Union of India in LAC No. 39/97 awarded the compensation of Rs. 1,25,000/- per bigha and also awarded the claimants compensation @ Rs. 28,125/- per bigha for Block A and Rs. 87,000/- per bigha for Block B land.

4. The Union of India aggrieved from the order of the reference court has filed the present appeal before this Court.

5. Upon filing these appeals, notices were ordered to be issued to the respondents. The learned Counsel for one of the respondent (DDA) on 23.3.06 stated that DDA did not file any reply to the applications and on the contrary stated that the DDA fully supports the appeals and pray for the Reference Court order to be set aside. These cases came up for hearing on 17.4.06. The Court passed the following order :

As per report of the registry, the respondents have been served. Despite service, nobody is present on behalf of the said respondents. They are ordered to be proceeded against ex parte in these proceedings. Counsel appearing for the DDA has stated that they support the contention of the appellant that order of the reference court be set aside for the grounds stated in the memorandum of appeal. Arguments heard. Judgment reserved.

6. The learned Counsel appearing for the appellant has relied upon the judgments of this Court in the case of Ved Prakash v. Union of India in RFA No. 561/03 decided on 24.5.05 and LA. APP 775/05 Union of India v. Nihal Singh decided on 16.3.06. In these cases also the appeal of the Union of India was barred by time and application for condensation of delay had been filed which was allowed by the Court. It may be appropriate to refer to the order of the Court in Nihal Singh's case supra the order reads as under :

As per the report of the registry, the respondents have been served. Nobody appears on behalf of the respondents despite service. They are ordered to be proceeded ex-parte in this petition.

CM No. 17189/2005

This is an application u/s 5 of the Limitation Act seeking condensation of delay of 89 days in filing the present appeal. It has been stated in this application that the records were sent to different officers and before the approval could be available, the delay in filing the same occurred. The application is supported by an affidavit. There is no opposition to this application. So far as the reasons stated in the application are concerned, we are satisfied that the delay of 89

days be condoned for filing the present appeal. Consequently, this application is allowed. The delay of 89 days in filing the present appeal is condoned.

The application stands disposed of. The present appeal against the respondents has already been proceeded ex-parte. As per our above order, this appeal is directed against the judgment of the learned trial court u/s 18 of the Land Acquisition Act in L.A.C. 3 of 2001. Vide notification dated 6th June, 1991, the appropriate Government had acquired 8723 Bighas and 16 bids was of land u/s 4 of the Land Acquisition Act. Award thereto was passed being Award No.1/1993-94. The land owners were granted compensation by the Collector. Dissatisfied from the extent of the amount awarded to them, they filed petitions u/s 18 of the Land Acquisition Act which were disposed of by the learned reference court vide its judgment and order dated 5th April, 2005. The compensation was enhanced to Rs. 1,25,000/- for the land belonging to the petitioners. It may be noticed that this order of the learned reference court was based upon certain other connected references which have been made in relation to the same notification and of the land falling in the revenue estate of the concerned villages. Learned counsel appearing for the appellant pointed out that the controversy in the present case is squarely covered by a Division Bench judgment of this Court bearing RFA No. 561/2003 in case titled as ? Ved Prakash v. Union of India and Ors.? decided on 24th May, 2005. We have perused the judgment as well as the records of the present appeal. It is clear that the case of ?Ved Prakash v. Union of India and Ors.? was also one of the case relied upon by the reference court while passing the impugned judgment. The judgment of the Division Bench in Ved Prakash case is squarely applicable on facts and law of this case and we see no reason to take any different view than the view taken by the Division Bench in that case.

For the reasons stated in that judgment, this appeal is also allowed and order of the learned reference court dated 5th April, 2005 is hereby set aside. The case is remanded to the trial court who shall proceed with the matter in accordance with law and the observations made in the case of ?Ved Prakash v. Union of India and Ors.?. Parties are directed to appear before the trial court on 25th April, 2006. Parties to bear their own costs in this appeal. The record of the trial court be sent back forthwith if received by this court.

7. While following the reasoning given by the Court in both the above referred cases and particularly the case of Ved Prakash, the delay in filing the appeals is condoned. CMs are accordingly disposed of. The order of the Reference Court is set aside and the parties are directed to appear before the Reference Court on 28.4.06. The Reference Court shall proceed with the reference in accordance with law. It is expected that the Reference Court may deal with the matters expeditiously. In addition to this direction, the parties would abide by all the directions issued by the Division Bench in Ved Prakash case which will be read as a part of this order. The appeals are disposed of accordingly while leaving the parties to bear their own costs.