

IN THE COURT OF SH. NEERAJ GAUR
ADDITIONAL DISTRICT JUDGE : ROHINI COURTS : DELHI
LAC No. 1619/16

Union of India
Vs.
G.S. Holami Kalan

Order on application under order 1 rule 10 CPC

1. This order shall decide the application dated 01.09.2018 u/o 1 rule 10 CPC moved by Sh. Dharamvir for his impleadment. It is a reference under section 31 of the Land Acquisition Act and the applicant has sought to be impleaded an interested person (IP) in the present reference.
2. It is stated that the applicant and his real brother Sh. Nand Kishore (who is IP 6 in the present reference) were the co-owners of land Khasra No. 15/22 and 15/23 at Village Holambi Kalan. The applicant had authorized IP 6 to represent him in the legal matters in respect of said land. IP 6 subsequently became dishonest and he also managed to get deleted the name of the applicant from the khasra girdawaris. It is stated that in the year 1982, one proceeding u/s 86 A DLR Act was initiated by the Gram Sabha

against both the brothers. Both the brothers had also filed a Civil Suit in 1989 for permanent injunction. Both the brothers had also filed petition u/s 85 of the DLR Act.

3. It is further stated by the applicant that he applied for release of compensation to the LAC vide letter dated 28.11.2006 & reminders dated 30.10.2007 and 12.11.2013 but LAC did not refer the applicant to the present reference. The applicant had also filed a similar application dated 28.11.2013 before this Court for the same relief but the same was dismissed as withdrawn vide order dated 24.11.2015 in view of a judgment titled as Ram Prakash Aggarwal Vs. Gopi Krishan (2013) SCCR 537 (Supreme Court). Thereafter, the applicant preferred a writ petition before the Hon'ble Delhi High Court against the order dated 24.11.2015. In the said writ petition, the Hon'ble Court had permitted the applicant to file a fresh application opining that the ratio of Ram Prakash Aggarwal's Case (supra) will not be applicable. Hence, the present application.
4. The application has been opposed in particular by IP 6 who has filed reply to the same. Arguments have been heard.

5. The first objection against the application is regarding its maintainability Under Order 1 Rule 10 CPC in the present reference. Reliance has been placed on the case titled as Ram Prakash Aggarwal's case (supra) , Shamli Dass Vs. Illa Chaudhary AIR 2007 SC 215, Prayag Upnivesh Awas Evam Nirman Sehkari Samiti Vs. Allahbad Vikas Pradhikaran AIR 2003 SC 2302.
6. On the other hand, the counsel for the applicant has relied upon the judgment titled as Peerless General Finance Ltd. Vs. UOI order decided on 21.09.2017 by the Hon'ble Delhi High Court (DB).
7. In Peerless General Finance case, the Hon'ble High Court, in Para 10 clearly stated that the ratio led down in Shamili Dass case is an authority that a third party cannot seek impleadment in Section 18 proceedings. The Hon'ble Court further ruled and clarified that such application u/o 1 rule 10 CPC will be maintainable in proceedings u/s 30-31 of the LA Act. In view of the ratio laid down in Peerless case, I hold that the present application is maintainable.
8. Now, I shall examine the merits of the application. The

applicant's case is that he did approach the LAC for compensation vide a letter dated 28.11.2006 followed by a reminder of 2007. But the LAC did not refer his name in the present reference. On the other hand, the case of IP 6 is that the applicant had long time ago stopped cultivation of the land hence, he never approached the LAC. It was argued that in the year 2013, the applicant came up with a false story of having made a claim in the year 2006 on the basis of fictitious letters. It is argued that LAC has already given a report dated 03.08.2015 verifying that no letter dated 28.11.2006 was received in the concerned LAC office.

9. The provisions of the LA Act are designed in such a manner that every concerned gets every opportunity and chance to make a claim before the LAC including any objection against the acquisition proceedings. After a preliminary notification u/s 4 objections are heard u/s 5 A. Thereafter a declaration u/s 6 is made. Thereafter land is marked out, measured and planned u/s 8. Notices are thereafter issued to the IPs u/s 9 by a public notice to be given near the land to be acquired. There are strict compliances at every such stage and only thereafter, an Award u/s 11 can be passed by the LAC.

10. To show that the applicant had approached the LAC, reliance has been placed on a letter dated 28.11.2006. There is a report by LAC that no such letter was filed by the applicant. Counsel for applicant conceded that no official receiving was given with respect to the letter dated 28.11.2006 as well as to the reminder letter dated 30.10.2007. A receiving was given only for the second reminder dated 14.11.2013.

11. This reference is pending since 30.10.2006. As per his own case, the applicant had become conscious about his rights when he filed his application on 28.11.2006. There is no explanation as to why the applicant slept over his rights thereafter because the purported first reminder was given on 30.10.2007. The applicant seems have again gone in hibernation for about 6 years when he moved the purported second reminder dated 14.11.2013. The first two letters have no official receiving from LAC office or any diary number thereon. The applicant himself is a Govt. servant and can be presumed to be aware of the Govt. procedures. He cannot be so naïve that he did not ask for a receiving of any letter. The applicant has failed to give any explanation for not asserting his purported rights for such long duration. This absence of explanation emboldens the case of the IP 6 that the applicant had

no interest in the cultivation of the land in question. It is noteworthy that IP 6 has based his claim on the basis of long cultivatory possession. The applicant also has a case on similar ground but it seems highly improbable that the applicant showed utmost lathargy in asserting his claim. The first two letters do not have any receiving given by the LAC office and I am finding them suspicious. The suspicion further deepens when it is seen that the applicant failed to act till 2013 when he gave 'second reminder'. The applicant is not only lacking in bonafides but his case is surrounded by suspicious circumstances. The applicant has failed to make out a case for his impleadment as an IP in the present reference. Application is accordingly dismissed.

**Announcement in the
Open Court on 09.10.2018**

**(NEERAJ GAUR)
ADJ-01/North District,
Rohini Courts/Delhi**