

05.09.2018

Present: Sh. Abhimanyu Singla, Id. Counsel for petitioner.

Sh. Vinay Kumar, Id. Counsel for UOI.

Sh. M.L. Garg, Id. Counsel for DSIDC.

Arguments heard on the application under Order 1 Rule 10 CPC moved by DSIDC for its deletion.

The undisputed facts are that certain land of Village Bawana came under Government acquisition in respect of which Award No. 8/2000-01 was passed by the LAC. However, the particular land of the petitioner was not under the land notified for acquisition. The LAC took over the possession of the land of the petitioner in the year 2001 and handed it over to the beneficiary i.e. DSIDC. The land of the petitioner in fact came under acquisition vide a subsequent Award No. 19/2005-06, although, the possession had already been taken over vide the former award. The petitioner approach the Hon'ble High Court and LAC was directed to send a limited reference for determination of damages for the period he had wrongly taken over the possession.

Ld. Counsel for DSIDC argued that DSIDC was given the possession of the petitioner's land by the LAC that was taken by DSIDC under bonafide belief that the acquisition was validly done. It is argued that the DSIDC was not involved in taking any wrongful possession,

hence, it is liable to be deleted from the array of parties.

The application has been opposed by the petitioner as well as UOI on the ground that the petitioner's land remained under possession of DSIDC for about 03 years prior to the subsequent acquisition and DSIDC is liable to pay damages for the period during which DSIDC enjoyed the possession.

The DSIDC did enjoy the possession of the land for a period when the land was allegedly wrongly taken over by the LAC. Accordingly, DSIDC cannot be absolved its liability to pay damages for the said period if the liability to pay any damages is proved. Such a liability on DSIDC cannot be fastened in its absence, hence, DSIDC is a necessary party. Moreover, it is only the plea of DSIDC that it took over the land from the LAC under bonafide belief. Such plea cannot be just presumed and has to be proved on record. For this reason also, the DSIDC must participate during the trial, if they want to prove their plea.

In view of the afore going discussion, I do not find any merit in the application under disposal and same is dismissed.

On request of Id. Counsel for the respondents, put up for RE on 20.10.2018.

(Neeraj Gaur)
ADJ-1(North)/Delhi/05.09.2018