

LAC no. 2/19
Devi Ram VS. Union of India

14.08.2019.

Present: Counsel for parties.

By virtue of this order, application under Order VI Rule 17 CPC seeking amendment of the plaint is being disposed of.

In a nutshell, it is argued by counsel for the petitioner that the present petition for enhancement of compensation amount was filed wherein the petitioner inadvertently and bonafidely in para no. 7 of the reference in the prayer clause claimed only Rs. 15 per sq. yards alongwith statutory benefits. Further, the petitioner is an uneducated person and had not correctly assessed the value of his land at the time of the filing of the reference. It is stated that land of the petitioner is situated at a prime location and he may be permitted to amend the reference petition and claim Rs.20,000/- per sq. Yards. It is submitted that the said amendment is very necessary to decide the real controversy between the parties and irreparable loss would be caused to the petitioner if the amendment is not allowed.

Petitioner has relied upon *Ambya Kalia Mhatre Vs. State of Maharashtra (2011) 9 SCC 325; Harcharan Vs. State of Haryana (1982) 3 SCC 408; Smt. Narbada Devi Vs. Union of India 91 (2001) Delhi Law Times 574 (DB) and Bhag Singh and Ors. VS. Union Territory of Chandigarh AIR 1985 SC 1576* in support of his submissions.

In rebuttal, It is argued by counsel for respondent / Union of India that the present application is an abuse of process of law as petitioner was not the recorded owner under section 9 of the Land Acquisition Act (in short LA Act) and that is why no notice was sent to him, as there was a dispute regarding share and ownership of land. Further, as per section 25 of the old LA Act, the amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector. As per the said provision, there is an embargo to enhance the compensation amount more than that claimed in the reference filed before the LAC which was forwarded to this Hon'ble Court. In view of aforesaid, the petitioner can not be permitted to amend the amount claimed in the reference filed by him which falls under the ambit of section 25 of the old LA Act.

Counsel for respondent has relied upon judgment of ***Land Acquisition Officer cum DSWO AR Vs. V.V. Reddy and Son 2002 AIR SC 1045 and Union of India Vs. Promod Gupta 2005 Law suit (SC) 1213.***

I have given careful consideration to the submissions advanced by the counsel for the parties in the light of the judicial record.

The award relates to the year 1969-70 of village Aali. So far as the issue whether section 25 of the old Act or of the amended Act will come into play to decide the application, it is no longer res integra that section 25 of LA Act is substantive in nature and therefore, as substantive laws are prospective in nature, the old

Section 25 provision shall be applicable to the present case. On the issue whether the claimant can be permitted to seek amendment in the compensation amount as claimed by him, law has been settled by the Hon'ble Apex Court in ***Land Acquisition Officer cum DSWO AR Vs. V.V. Reddy judgment (Supra)***, the unambiguous and clear language of Section 25(1) LA Act as it stood prior to amendment makes it explicitly clear that if the claimant has made a claim pursuant to notice under section 9, then the Court would be incompetent to award any amount exceeding the said claim. Further, the petitioner had opportunity to claim higher compensation in the reference filed before the Land Acquisition Collector under section 18 of LA Act, which he did not avail. Hence, the petitioner can not at this stage seek amendment of the compensation amount as claimed in his reference filed before the LAC, which has now been forwarded to the Court.

The judgments as cited by the petitioner are primarily on the point of amendment of petition under Order VI Rule 17 CPC in Land Acquisition matters, but are distinguishable on facts. Moreover, in view of the settled law in ***Land Acquisition Officer cum DSWO, AR Vs. V.V. Reddy (Supra)***, the same are of no help to the petitioner. **Hence, application under Order VI Rule 17 CPC stands dismissed. Accordingly, application is disposed of.**

Matter now be listed for petitioner evidence on **04.09.2019.**

(Surya Malik Grover)
ADJ-1(South East) Saket Court
New Delhi/14.08.2019(ds)