

Case :- FIRST APPEAL No. - 281 of 1998

Appellant :- U.P. Avas Evam Vikas Parishad

Respondent :- Bhikhan And Another

Counsel for Appellant :- Pankaj Mithal

Counsel for Respondent :- J.N.Sharma

Hon'ble Surya Prakash Kesarwani,J.

Heard Sri Vivek Saran, learned counsel for the appellant - U.P. Avas Evam Vikas Parishad and Sri J.N.Sharma, learned counsel for the claimant-respondent.

Order on delay Condonation Application No.220580 of 2014 and Substitution Application No.220581 of 2014

The sole claimant-respondent no.1 - Sri Bhikhan died on 9.12.2008 leaving behind his heirs and legal representatives as mentioned in paragraph 6 of the affidavit accompanying the substitution application.

Cause shown for delay in filing the substitution application is sufficient. **Delay Condonation Application is allowed. Substitution Application is also allowed.** Heirs and legal representatives of the respondent No.1, as mentioned in paragraph 6 of the affidavit accompanying the substitution application are allowed to be substituted. Necessary correction in the array of parties be carried out within a week.

Order on Appeal and cross objection No.220576 of 2014

By Notification dated 26.6.1982 under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") certain land measuring 1157.895 acres situate in Villages - Arthala, Jhandapur, Prahlad Garhi, Mohiuddinpur, Sahibabad & Makanpur of District Ghaziabad were acquired. Notification under Section 6 of the Act was issued on 28.2.1987. The Special Land Acquisition Officer made the award on 27.2.1989. Dissatisfied with the offer made by the award, several land acquisition references were filed by the land owners under Section 18 of the Act, 1894. In some of the references the Reference Court determined compensation @ Rs.120 per sq. yard while in the reference from which the present appeal arise the Reference court determined the compensation @ Rs.80/- per sq. yard. The impugned judgment dated 2.2.1998 has been passed by the 4th Additional District Judge, Ghaziabad in L.A.R. No.468 of 1991 alongwith six other land Acquisition references, namely, 469, 470, 471, 472, 473 and 474 all of 1991. Similar First Appeal filed by the U.P. Avas Evam Vikas Parishad being 916 of 2000 was dismissed by this Court by Order dated 2.4.2019 as under:

"Heard Sri Vivek Saran, learned counsel for the U.P. Avas Evam Vikas Parishad and Sri Surendra Tiwari, learned counsel for the claimant-respondents.

By Notification dated 26.6.1982, under Section 4(1) of the Land Acquisition Act, 1894, read with Section 28 of the U.P. Avas Evam Vikas Adhiniyam 1965, land measuring 1157.895 acres situate in Villages - Arthala, Jhandapur, Prahlad Garhi, Mohiuddinpur, Sahibabad & Makanpur of District Ghaziabad were acquired. Notification under Section 6 of the Act was issued on 28.2.1987. The

Special Land Acquisition Officer made the award on 27.2.1989. Dissatisfied with the offer made by the award, several land acquisition references were filed by the land owners under Section 18 of the Act, 1894. Four such land acquisition references being L.A.R. Nos.56, 205 & 209 all of 1995 and 236 of 1992 were decided by the impugned common judgment dated 23.5.2000, passed by the 8th Additional District Judge, Ghaziabad. The present appeal arises from the judgment passed in L.A.R. No.236 of 1992. Another First Appeal No.86 of 2001(U.P.Avas Evam Vikas Parishad Vs. Asha Ram And Another) arising from the judgment passed in LAR No.209 of 1995 (Asha Ram and another Vs. State of U.P. and another) was decided by Division Bench of this Court by judgment dated 1.12.2015 and the First Appeal of the U.P. Avas Evam Vikas Parishad was dismissed.

The compensation determined by the reference court @ Rs.120/- per sq. yard was, thus, not interfered with by the Division Bench. Since another first appeal being First Appeal No.86 of 2001 arising from the impugned common judgment has already been dismissed by the Division Bench by judgment dated 1.12.2015, and also since no distinguishing feature could be pointed out by learned counsel for the appellant, therefore, the present appeal is also dismissed following the judgment in the aforesaid First Appeal No.86 of 2001."

Sri J.N.Sharma, learned counsel for the claimant-respondent states that First Appeal Nos. 275 , 276 and 279 all of 1998 arising from the impugned common judgment of the Reference Court are also pending in which Cross Objections are also pending, therefore, all these First Appeals may be heard together.

Learned counsel for the claimant-respondent further states that deficiency of Court Fee with respect to cross objection as reported by the stamp reporter dated 27.11.2018, shall be made good by the claimant-respondent within two weeks. Therefore, the claimant-respondent is granted two weeks' time to make good the deficiency of Court Fee in his Cross Objection, failing which cross objection may be dismissed for non filing of the Court Fee.

As prayed list peremptorily on **1.5.2019** alongwith records of First Appeal Nos. 275 , 276 and 279 all of 1998. Before the next date of listing, learned counsel for the appellant shall also obtain instruction with respect to the aforesaid three First Appeals.

Sri Vivek Saran, learned counsel for the appellant shall also obtain instruction in the all connected three First Appeals.

Order Date :- 16.4.2019/vkg