

Municipal Corporation of Delhi

Vs

Lichho Devi & Ors.

(Dr. A.S. Anand, K. Venkataswami JJ)

01.09.1997

ORDER

1. Leave granted.

2. The High Court, after hearing arguments in Civil Writ Petition filed by the respondents held that since the Award had not been made within the period stipulated by the statute (Section 11A), the notification concerning acquisition of Khasra Nos. 127 and 173 had to be declared to be of no effect and after making that order, released the two Khasra numbers from the acquisition notifications vide order dated 22.8.1996. This appeal calls that order in question.

3. The attention of the High Court had been drawn to the 'stay order' dated 25.4.1985, whereby during the pendency of the Writ Petition, the dispossession of the petitioners had been stayed by the High Court to urge that the period during which the stay order was in operation had to be excluded for computing the prescribed period under Section 11A of the Act. According to the High Court, however the order dated 25.4.1985 concerned only the stay of dispossession of the writ petitioners and it could not, in any way be interpreted to imply stay of acquisition proceedings. The approach of the High Court is erroneous. This question is no longer resintegra. In Government of Tamil Nadu & Anr. Vs. Vasantha Bai (1995 (Supp.) 2 SCC 423), a Bench of this Court has held that the stay order of the type that was granted in the instant case, tantamounts to stay of further proceedings being taken and therefore the entire period during which the stay order was in operation was to be excluded while computing the period of two years prescribed for making an Award under Section 11A of the Act. The view taken by the High Court, is, therefore, not sustainable.

4. We, however, find that the High Court has not dealt with the merits of the writ petition and quashed the notification on an erroneous interpretation of the stay order. We, therefore, while accepting this appeal and setting aside the order of the High Court, remand the Writ Petition to the High Court for its fresh disposal in accordance with law on the other points raised in the writ petition. It shall be open to the parties to raise all such pleas, as are available to them, including the subsequent events during the arguments in the High Court. We request the High Court to dispose of the writ petition expeditiously and not to construe any observation made by us in this order as an expression of opinion on the merits of the case. No costs.