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Hitesh Bhardwaj Vs State of NCT of Delhi and Others

LPA 129 of 2009 and C.M. No. 4415 of 2009

Court: Delhi High Court

Date of Decision: April 21, 2009

Citation: (2009) 04 DEL CK 0344

Hon'ble Judges: Dipak Misra, C.J; Neeraj Kishan Kaul, J

Bench: Division Bench

Advocate: Pankaj Vivek, for the Appellant; Avnish Ahlawat and Simran, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. For the reasons mentioned in these applications, the delay of 18 days in filing the present appeals is condoned.

2. The applications stand disposed of.

LPA. Nos. 129-132/2009

3. The present appeals arise out of the impugned judgment of the learned Single Judge dated 5th December, 2008. This Court has already

dismissed similar appeal (LPA No. 7 of 2009) arising out of the same impugned judgment raising principally the same challenges to the impugned

judgment. The learned Single Judge has rightly held that by getting for themselves the Divisional Commissioner''s land abutting the main road in

exchange for land nowhere near it, the transferees had reaped a huge advantage. There was little doubt that the transferees acted in concert to

exploit the situation with the connivance of a pliant Government official and deprived the Divisional Commissioner (in short ''DC'') of valuable land

behind his back. The Consolidation Officer (in short ''CO'') was induced to exercise a power he did not have as a result of which an order that

constitutes a fraud on power came to be passed. The order dated 1st December, 1995, passed by the CO, whereby he divested the DC of his

land without notice to the DC in exchange for the land offered by the allottees was rightly held by the learned Single Judge to be without any

authority of law whatsoever. The nature of illegality was a grave one. The learned Single Judge has correctly held that none of the interim orders in

favour of the transferee and her family members could have created any equity in her favour, much less in the subsequent transferees. The learned

Single Judge has rightly observed that no case for equitable relief was made out by any of the transferees who took a risk in entering into illegal

transactions concerning the land in question despite the pendency of court proceedings and rightly declared all transfers of any part of the DCs land

subsequent to and consequent upon the CO''s order dated 1st December, 1995 as illegal and without authority of law.

4. This Court in its order dated 15th January, 2009 in LPA No. 7 of 2009 and LPA No. 10 of 2009 had observed that these transactions were

not a mere co-incidence and indicated a fraud purported to deprive the DC of valuable lands and caused huge loss to the Exchequer.

5. During the course of hearing, it was brought to our notice that the appellants in the present appeals belong to the same family as that of Smt.

Ramesh Kumari, principal perpetrator of the fraud. This was not denied by the counsel for the appellants. Further it is the admitted position that the

appellants had received the DCs land which the DC had been wrongly deprived of by the CO.

6. It has been vehemently argued by learned Counsel for the appellants that these cases are different from those of other transferees, however,

nothing has been placed before us to distinguish how these cases are in anyway different from the case of other transferees. It is of course open to

the appellants to take recourse to any remedy available to them in law. However, these appeals must fail as no ground for interference with the

impugned judgment of the learned Single Judge has been made out.

7. In view of what has been stated hereinabove and in view of the order passed by this Court in LPA No. 7 of 2009 and LPA No. 10 of 2009,

the present appeals are liable to be dismissed. It is ordered accordingly.