

CASE NO.:
Appeal (civil) 1067-1068 of 2001

PETITIONER:
R.P. Singh

RESPONDENT:
Union of India & Ors.

DATE OF JUDGMENT: 04/08/2005

BENCH:
ASHOK BHAN & S.B. SINHA

JUDGMENT:

J U D G M E N T

With

CA No. 4427-4435 of 2001, CA No.4572 of 2005 @
SLP(C) No.15709 of 2005 @ CC 4827 of 2001, CA
No._____ of 2005 @ SLP(C) No. 8773 of 2002, CA
No. 1734 of 2003 CA No. 3236 of 2005, CA No. 3237 of
2005, CA No. 3238 of 2005, CA No. 3239 of 2005 and
CA Nos. 3395-3399 of 2002.

BHAN, J.

Aggrieved against the judgments & orders dated 3.3.2000 and 7.2.2003 the claimants/appellants have come up in these appeals. The judgment and order dated 3.3.2000 relates to the acquisition of land situated at village Mangolpur Kalan, Delhi and order dated 7.2.2003 relates to the acquisition of land situated in village Mangolpur Khurd, Delhi.

Though the notifications under Section 4 of the Land Acquisition Act, 1894 [hereinafter referred to as "the Act"] for the acquisition of land for village Mangolpur Kalan and Mangolpur Khurd were issued on different dates i.e. 24.10. 1961 and 4.3.1963, the High Court determined the market value for the land of both the villages at the same rate of Rs. 6,500/- per bigha. In addition to the market value of Rs.6,500/- per bigha the appellants were awarded solatium at the rate of 30%, interest at the rate of 9% per annum for a period of one year from the date of taking over of possession of the land by the Collector and thereafter at the rate of 15% per annum till the payment is made to them. They have also been held entitled to simple interest at the rate of 6% per annum on the market value from 24.10.1964 onwards under Section 4 (3) of the Land Acquisition (Amendment and Revalidation) Act, 1967 because of the difference of more than 3 years between the issuance of the notifications under Section 4 and 6 of the Act provided there was no overlapping of interest.

Facts are being taken from CA No. 1067-68 of 2001 relating to village Mangolpur Kalan.

Notification under Section 4 of the Act was

issued on 24.10.1961 notifying the intention of the State Government to acquire land, measuring 16,000 acres marked in blocks 1 to 24 covering number of revenue estates of Union Territory of Delhi at public expense for public purpose, namely, planned development of Delhi. The notification was followed by declaration under Section 6 of the Act issued on 6.12.1966 for 928 bighas, 18 biswas of land situated in village Mangolpur Kalan. Similar notifications under Section 6 of the Act were issued for different revenue estates. Land Acquisition Collector vide its award dated 23.5.1980 fixed the compensation for Nehri Land at Rs. 5,000/- per bigha and for G.M. Gadha (pits) at the rate of Rs. 1,500/- per bigha. Another award was given on 25.7.1980 fixing the market value of Nehri land situated along the Khanjhwala Road at Rs. 6,000/- per bigha and for the land away from the road at the rate of Rs. 5,000/- per bigha.

Appellants being aggrieved filed reference application under Section 18 of the Act. Reference Court vide its order dated 12.11.1986 fixed the market value of the Nehri land at Rs. 5,000/- per bigha and Rs. 4,800/- per bigha for the land under pits. Statutory benefits of 30% solatium and interest as payable after the amendment of the Land Acquisition Act No.68 of 1984 [hereinafter referred to as the "amending Act"] were also ordered to be paid. High Court in appeal filed under Section 54 of the Act enhanced the compensation to Rs. 6,500/- per bigha for the entire land over and above the statutory benefits made available as per the amended provisions of the Amended Act.

For the acquisition of the land of village Mangolpur Khurd notification under Section 4 was issued on 4.3.1963. Though the land of village Mangolpur Khurd was acquired after 18 months of the acquisition of the land at village Mangolpur Kalan the amount of compensation was fixed at the same rate as the value of the land at village Mangolpur Khurd was found to be less than the value of land of village Mangolpur Kalan being farther away.

Being aggrieved the claimants/appellants have come up in these appeals. In these appeals they have claimed compensation at the rate of Rs. 20,000/- per bigha.

Counsels for the parties have been heard.

Counsels appearing for the appellants submitted that only a meagre amount of compensation at the rate of Rs.6,500/- has been paid to them, while the respondents are selling the land at the rate of Rs.25 lacs per bigha and therefore they are entitled to compensation at a rate much higher than what has been awarded to them.

Section 23 of the Act enumerates the matters to be considered by the Court while determining the compensation. It provides that claimant would be entitled to the market value of the land as on the date of publication of the notification under

Section 4 (1) of the Act. He would also be entitled to damage, if any, suffered by him because of the acquisition of the land.

The function of the Court in determining the amount of compensation under the Act is to ascertain the market value of the land as on the date of the notification under Section 4 and the methods of valuation may be (1) opinion of the experts (2) the price paid within a reasonable time in bona fide transaction of purchase of the lands acquired or the lands adjacent to the lands acquired possessing similar advantages and (3) capitalisation method or its potential value being close to the developed or developing colonies, nearness to road etc. The Land Acquisition Collector awarded the compensation treating the land to be agricultural and on the basis of the comparable sales near about the date of acquisition. It has not been shown that the land at the time of acquisition had any potential for use other than the agriculture. Claimants have also not produced any evidence to show that they suffered any special damage because of the acquisition. Counsels appearing for the appellants were also not able to show any instance of sale close in time to the issuance of Section 4 notification for fixing the market value of the adjacent lands at a price higher than Rs.6,500/-. They were also unable to refer to any other piece of evidence on record which could help us in determining the market price of the land as on the relevant date. However, they have place on record a copy of the judgment of the Delhi High Court in RFA No. 531 of 1969 dated 11.9.1984 wherein the High Court has fixed the market value of the land of village Mangolpur Kalan acquired under the same notification at Rs. 7,000/- per bigha. In the absence of any other evidence and relying upon the instance of fixing the market value relating to the same village under the same notification by the High Court in RFA No. 531 of 1969 we fix the market value of the land at Rs. 7,000/- per bigha. Claimants shall also be entitled to the statutory benefits for the enhanced amount of compensation as per Act after its amendment.

Contention raised by the counsel for the appellant that they should be paid higher compensation because the respondents were now selling the land at the rate of Rs.25 lacs per bigha cannot be accepted. Counsel for the respondent has brought to our notice that the land is now fully developed and for its development the respondents have spent a lot of money and the claimants would not be entitled to a higher price simply because after 40 years of acquisition and its development the land was being sold at a higher price. As already stated above, the market value of the land has to be determined as on the date of publication of the notification under Section 4 (1) of the Act and not as it prevails at a later date after the land has been fully developed.

Counsels appearing for the appellants belonging to village Mangolpur Khurd argued that since the land of village Mangolpur Khurd was acquired 18

months after the acquisition of the land for village Mangolpur Kalan they are entitled to an increase in the amount of compensation as during this period price of land had escalated. We do not find any substance in this submission. The reference Court has recorded a finding which has been upheld by the High Court that the market value of the land of village Mangolpur Khurd was less than the market value of land of village Mangolpur Kalan being farther away. The High Court has awarded the same amount of compensation for the land of village Mangolpur Khurd only because it had been notified for acquisition on a later date. We agree with the view taken by the High Court. Counsels appearing in these cases have not shown that the market price of the land of village Mangolpur Khurd was the same as that of village Mangolpur Kalan. The land of village Mangolpur Khurd being farther away from the land of village Mangolpur Kalan the claimants would not be entitled to the same amount of compensation as it did not carry the same market value. Since the land at village Mangolpur Khurd was acquired after 18 months of the acquisition of the land at village Mangolpur Kalan they are entitled to the same amount of compensation as has been awarded for the land of village Mangolpur Kalan. The appellants whose land had situated at village Mangolpur Khurd would also be entitled to the compensation at the rate of Rs. 7,000/- per bigha. This would be over and above the statutory benefits available under the Act.

We are given to understand that in some of the cases the land owners have been awarded solatium at the rate of 15% per annum as per the unamended provisions of the Act. It is made clear that they would be entitled to solatium at the rate of 30% on the entire amount of compensation along with statutory interest payable after the amendment of the Act.

For the reasons stated above, the appeals are disposed of in terms of the observations made hereinabove. Parties shall bear their own costs in these appeals.