

(1986) 12 AHC CK 0040
In the Allahabad High Court
Case No : Writ Petition No. 4389 of 1986

Amarjit Singh

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 17-12-1986

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 28A
Uttar Pradesh Nagar Mahapalika Act, 1959 — Section 363

Citation : (1987) RD 389

Hon'ble Judges : K. Nath, J;B.L. Loomba, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

K. Nath, J.—We have heard learned Counsel for the parties as this petition is fit to be disposed of on a short matter.

2. Land situated in a number of villages were taken up for acquisition u/s 363 of U.P. Nagar Mahapalika Adhinyam, 1959 for which a notification was issued on 20.5.1967. In course of time, an award, made by the Land Acquisition Officer in respect of some of the land of the notification, came up for consideration in Court u/s 18 of the Land Acquisition Act. By an order dated 14.3.1984, the court fixed a compensation at the rate of 1.20 P. per Sq. feet in place of the rate of 0.50 P. per Sq. feet determined by the Land Acquisition Officer. When the question of determination of compensation in respect of the remaining land, subject matter of the present writ petition, came up for determination before the Special Land Acquisition Officer, he made award on 27.5.1986 fixing a rate of 0.50 P. per Sq. feet only. The Petitioner, however, had made an application to the Special Land Acquisition Officer that having regard to the rate determined by the court u/s 18 of the Land Acquisition Act, the proper rate payable should be Rs. 1.20 P. per Sq. feet. Reliance appears to have been placed upon Section 28A of the Land Acquisition Act which was introduced by Amending Act 68 of 1984 with effect from 24.9.1984. That provision provided for a case of persons interested in lands

other than those in respect of which an award u/s 11 of the Land Acquisition Act was enhanced by the court u/s 18 of the Act where the lands were all covered by the same notification. The provision, briefly put, is that where the compensation fixed by the Court is in excess of the amount fixed by the Collector, the persons interested in the other land, even if they have not applied for a reference u/s 18 of the Act, could make an application to the Collector within three months from the date of the award by the Court for determination of compensation on the basis of the amount fixed by the Court. The Land Acquisition Collector while dealing with the case of the Petitioner took the view that the provisions of Section 28A of the Land Acquisition Act were not available to the Petitioner. We are expressing no final opinion on that question, but we are satisfied that the Land Acquisition Officer was further bound to consider the rate of Rs. 1.20 P. fixed by the Court u/s 18 of the Act in respect of the other land covered by the same notification. The learned Standing Counsel says that in respect of the some land of these very villages there has been some other award recently fixing a rate of 0.50 P. per Sq. feet. If that is so, those awards, if confirmed by the court in a reference u/s 18 of the Land Acquisition Act, are also relevant material even as the rate of 1.20 P. fixed by the court u/s 18 of the Act is relevant. A bare award by the Collector is only an offer on behalf of the Government to pay compensation for the land to be acquired as observed in the case of *Bhutnath Chatterjee v. State of West Bengal and Ors.*, (1969) 3 SCC 675 . A mere offer is not a valid basis for determining compensation unless it is relied upon as an admission of the State Govt., as held in the case of *State of Madras v. A.M. Kanjan*, 1976 SC 651 . An award would be a relevant piece of evidence also if it has been accepted by the owner-see the case of *Secretary of State v. Amulya Charan Banerjee* 1927 Cal. 874 ; but, in that case, the compensation determined by the court u/s 18 of the Act in respect of land of comparable circumstances and features has greater evidentiary value than the accepted award made by the Collector. Since the Land Acquisition Officer did not apply his mind to the rate fixed by the court u/s 18 of the Land Acquisition Act, as aforesaid, we are of the opinion that the compensation fixed by him in his award dated 5.8.1986 is not sustainable in the eyes of law. The said award contained in Annexure-6 is quashed and it is directed that the Land Acquisition Officer concerned will make a fresh re-determination of the compensation payable for the land in question bearing in mind the observations made above and relevant material for the purpose. The Special Land Acquisition Officer will make the award so far as possible within three months from the date of his receiving a copy of this order.