

(1991) 10 DEL CK 0003

In the Delhi High Court

Case No : Regular First Appeal No. 810 of 1988

Balbir Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 30-10-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1993) 50 DLT 40

Hon'ble Judges : G.C. Mittal, C.J.; Sat Pal, J

Bench : Division Bench

Advocate : R.B. Tahilramani, V.L. Jain and Sashi Kiran, for the Appellant;

Judgement

Gokal Chand Mittal, C.J.

(1) By a notification u/s 4 of the Land Acquisition Act, 1894 published on 27/07/1984 the Delhi Administration acquired 2123 bighas and 5 bids was of land in village Same purpose planned development of Delhi, in particular for setting up an industrial estate .The Land Acquisition Collector awarded compensation for the leveled land at the rate of Rs. 17,000.00 per bigha and the land in depression out of which earth had been. removed for preparing bricks or where there were brick kilns, awarded Rs. 13,000.00per bigha. Feeling dissatisfied, the claimants sought references. Some of the references came up for consideration before Sh. T. S. Oberoi. Additional District Judge, who by judgment dated 17/10/1988. enchanted the compensation for the leveled land to Rs. 25,000.00 per bigha. For the land in depression, references came up for consideration before different Additional District Judges who awarded either Rs. 21,000.00 or Rs. 22,000.00 per bigha for such land .

(2) Still feeling dissatisfied, the claimants have approached this Court. Since all these appeals arise out of the same award and common questions arise ,this judgment will dispose of R. F. A. Nos. 17/89, 18/89, 19/89,26/89, 27/89, 28/89, 29/89. 74/89, 75/89, 79/89, 89/89, 90/89, 91/89,123/89, 124/89, 132/89,

133/89, 134/89, 525/89, 526/89, 528/89, 548/89, 551/89, 552/89, 575/89, 577/89, 581/89, 582/89, 583/89, 601/89, 619/89, 622/89, 669/89, 670/89, 75/90, 76/90, 77/90, 78/90, 79/90, 80/90, 81/90, 82/90, 83/90, 84/90, 85/90, 86/90, 87/90, 88/90, 89/90, 101/90, 102/90, 103/90, 112/90, 119/90, 122/90, 123/90, 140/90, 145/90, 146/90, 155/90, 165/90, 173/90, 174/90, 187/90, 192/90, 193/90, 194/90, 195/90, 196/90, 197/90, 198/90, 199/90, 200/90, 201/90, 202/90, 203/90, 204/90, 205/90, 207/90, 227/90, 238/90, 239/90, 250/90, 257/90, 258/90, 259/90, 260/90, 261/90, 262/90, 263/90, 267/90, 271/90, 272/90, 273/90, 274/90, 275/90, 276/90, 277/90, 278/90, 337/90, 346/90, 355/90, 356/90, 357/90, 358/90, 359/90, 360/90, 361/90, 425/90, 426/90, 433/90, 434/90, 443/90, 444/90, 450/90, 460/90, 461/90, 462/90, 478/90, 479/90, 491/90, 493/90, 494/90, 508/90, 536/90, 537/90, 612/90, 621/90, 622/90, 623/90, 624/90, 626/90, 682/90, 701/90, 707/90, 714/90, 756/90, 820/90, 821/90, 837/90, 846/90, 88/91, 99/91, 100/91, 132/91, 133/91, 135/91, 155/91, 156/91, 157/91, 167/91, 176/91, 182/91, 203/91, 204/91, 219/91, 235/91, 237/91, 258/91, 323/91, 341/91, and 345/91.

(3) It cannot be disputed that the acquired land had gained potential for urban and industrial purposes at the time, the acquisition was made and the same position stands, reflected in the sale instances near about the date of acquisition. On behalf of the claimants, reliance is placed on the following sale instances:

						Ex
t.	Date of sale	Area sold	Price paid	Price per bigha	A-1 18-1-1982	1 bigha
Samepur	Rs.25,000.00	Rs.25,000.00	A-2 25-2-1982	1 bigha	Sampur	
Rs.20,000.00	Rs.20,000.00	A-4 22-7-1983	10 bids was	Samepur	Rs.48,000.00	Rs. 96,000.00

A-5 Judgment of the High Court dated 12/12/1984 relating to village Badli in regard to acquisitions dated 24/10/1961 and 4/03/1963 for planned development of Delhi, in which for 1961 acquisition, Rs.7000.00 per bigha and for 1963 acquisition Rs. 8.000.00 per bigha was awarded. AA-13 Judgment of the Additional District Judge relating to village Pipal Thala in regard to acquisition made on 13/06/1980 for the planned development in which Rs. 34,000.00 per bigha was awarded.

(4) On behalf of the Union of India, reliance is placed on the following instance. R-1 Award of the Collector relating to acquisition dated 26/03/1983 in village Samepur turn an Engineering College for which Rs. 13,000.00 per bigha was awarded.

(5) As regards instance R-1, the award of the Land Acquisition Collector, besides the acquisition is 16 months earlier to the present acquisition and the matter is pending consideration before the Additional District Judge in reference. That would hardly give a guide for determining the market value on the date of acquisition involved in these appeals, particularly when we have sale instances.

(6) Normally, we would have discussed all the sale instances relied on behalf of

the claimants, since they are only asking for compensation at the rate of Rs. 50,000.00 per bigha, which seems to be reasonable, in view of the instances relied upon by them, detailed, discussion is not necessary on the peculiar facts of this case, except observing that under Annexure A-4 the price fetched is at the rate of Rs. 96,000.00 per bigha and vide A-1 and A-2, the price fetched was Rs. 25,000.00 or Rs. 20,000.00 per bigha.

(7) Adverting to the instances of the claimants, we are of the view that it would be just and proper to fix the market price for the leveled land at Rs. 50,000.00 per bigha. In some of the appeals, the market price has been claimed at Rs. 50,000.00 per bigha and this is the maximum amount claimed in bunch of these appeals. In some other appeals, the claimants have sought amendment of the grounds of appeal to claim market price at the rate of Rs. 50,000.00 per bigha and they sought time to make good the Court-fees. Yet in some other appeals, the claimants have not filed applications for amendment for grounds of appeal but during arguments claimed compensation at the state of Rs. 50,000/. per bigha although Court-fee paid is on much lesser amount. Therefore, keeping all these facts in view, that even claimants are not wanting a market price of more than Rs. 50,000.00 per bigha, we order that the claimants would be entitled to market price of Rs. 50,000.00 per bigha for the leveled land.

(8) As regards the land which is in depression, i. e. under brick kilns, the same value cannot be awarded. In order to bring the land in same level, filling has to be done. Accordingly, we fix the market price of the land in depression at Rs. 45,000.00 per bigha

(9) The claimants would be entitled to solarium at the rate of 30 percent of the market price, they would also be entitled to interest at the rate of 9 per cent per annum for the first year i.e. from the date of taking of possession and at the rate of 15 per cent per annum thereafter till payment. The claimants would also be entitled to additional amount of 12 percent from the date of publication of notification u/s 4 of the Act till taking of possession.

(10) The applications filed by title claimants to seek amendment of the grounds of appeal to claim compensation at the rate of Rs. 50,000.00 per bigha and for payment of Court-fees are allowed and they are directed to pay the Court-fees within two months from today. Wherever the Court-fees have already been paid along with the applications, those applications also stand allowed. In cases wherever claimants have not asked for amendment of the grounds of appeal to claim compensation at the rate awarded by us today, those claimants are also allowed time to make good the Court-fees within two months from today.

(11) The appeals, other than R.F. A. 548 of 1989 stand allowed as indicated above, with costs. R.F. A. 548 of 1989, which is an appeal by the Union of India is dismissed.