

(1989) 01 DEL CK 0011

In the Delhi High Court

Case No : Regular First Appeal No"s. 73 and 83 of 1973 and 396 of 1974

Bhagwan Singh etc.

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 02-01-1989

Acts Referred:

Citation : (1989) 38 DLT 114

Hon'ble Judges : S.S. Chadha, J;P.N. Nag, J

Bench : Division Bench

Advocate : R.P. Jain and H.K. Saxena, for the Appellant;

Judgement

S.S. Chadha, J.

(1) R.F.A. 73/73 and the Cross Appeal 83/73 has arisen out of the judgment dated January 12,1973 of the Court of Shri O.N. Vohra, Addl. District Judge, Delhi answering a reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) out of award No. 1891 of village Moradabad Pahari. R.F.A. 396/74 has arisen out of the judgment dated July 9, 1974 of the Court of Shri O.N.Vohra, Addl. District Judge, Delhi answering a reference u/s 18 of the Act arising out of award No. 2047 of village Moradabad Pahari. The preliminary notification u/s 4 of the Act in both these awards was issued on January 23. 1965.

(2) Land situate in village Moradabad Pahari was notified for acquisition u/s 4 of the Act on October 24,1961 along with other land. In R.F.A. 250/68, "Manipal&0rs. v. Union of India", decided on November 15, 1988, had determined the market value of the acquired land in that appeal at the rate of Rs. 12,000.00 pcr bigha. The Court can take judicial notice of the trend of rise in prices of the land in that locality. In some cases, the Courts have allowed appreciation at the rate of 6%/o per annum, in others at the rate of 9%/o per annum and yet in some cases at the rate of Rs. 1,000.00 per bigha in the vicinity. Taking into consideration all relevant factors, we determine the market value of the acquired land in this case at the rate of Rs. 15.000.00 per bigha.

Whatever has been paid shall be deducted.

(3) In addition to the market value calculated at the aforesaid enhanced rate, the appellants will also be entitled to solarium at the rate of 15% and interest at the rate of 6% per annum from the date of taking over the possession till the date of deposit of the enhanced amount of compensation. So far as the entitlement of the appellants to the additional amount in terms of Section 23(1A) at the rate of 12%^o, solarium at the rate of 30% on the market value under the Amendment Act 68 of 1984 and interest at the rate of 9%^o per annum for a period of one year from the taking over of possession and thereafter 15% on the enhanced compensation till payment is concerned, we are informed that these questions have been referred to a larger Bench of the Supreme Court and the judgment has been reserved. If and when the judgment is delivered in the matter and if the appellants are found to be entitled to the increased amount, solarium, interest or additional amount, they will be entitled to receive the same from the Land Acquisition Collector in accordance with law.

(4) The appeal of the Union of India is dismissed with no order as to costs. The respondents in that appeal had withdrawn the amount after furnishing the security. The security is discharged. The two appeals of the claimants are allowed with costs.