(1994) 01 DEL CK 0045

In the Delhi High Court

Case No : Regular First Appeal No. 107 of 1984

Bhoop Singh APPELLANT

Vs

Union of India and Another RESPONDENT

Date of Decision : 06-01-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1994) 1 AD 249 : (1994) 53 DLT 209 : (1994) 28 DRJ 226

Hon'ble Judges : V.K. Jain, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : S.S. Shukla, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1)the appeal filed u/s 54 of the Land Acquisition Act, 1894 (for short ''the Act'') is against the judgment dated 24 September 1983 of the learned Additional District Judge by which he fixed the market value of the land at Rs.2,100.00 per bigha.

(2) The land is situated ill village Khichripur. Notification u/s 4 of the Act was issued on 13 November 1959 and declaration u/s 6 on 20 June 1966. The award given is No. 28-B/70-71 and a supplementary award thereto was made on 7 November 1975. The Land Acquisition Collector fixed the market value of the land at Rs.600.00 per bigha. On a reference made u/s 18 of the Act, the learned Additional District Judge, as noted above, fixed the market value at Rs.2,100.00 per bigha. The claim in the appeal before us is that the market value should have been fixed at rate of Rs.8,000.00 per bigha.

(3) No sale deed of the sale of any laid in the village Khichirpur has been brought on record which would have given the correct market value of the acquired land. Reference has been made to a decision of Mr. N.C. Kochhar, learned Additional District Judge dated 19 April 1966 in L.A.C. 267/68 where in Shri Kochhar held that revenue estate of Mandawali Fazalpur and that of Khichripur are adjoining to

each other. In fact what Mr. Kochhar said was that the revenue estates of Khichripur, Ghazipur and Mandawali Fazalpur are all adjacent to each other. Relying on such an observation Mr. Shukla, learned counsel for the appellant, referred to a Bench decision of this Court in Behari and Others Vs. Union of India etc., , as well as to Kesho Dass v. Union of India and another, Rfa No. 311/74, decided on 11 April 1991,to contend that the market value of the land in the revenue estate of village Mandawali Fazalpur was fixed at Rs.8,064.00 per bigha. The notification u/s 4 in that appeal was also dated 13 November 1959. The argument, however, as it stands, that when market value of the land of one revenue estate is fixed at a particular rate, that very value should be applied to the adjoining revenue estates, does not appeal to us. We cannot go on fixing value of the land in a particular revenue estate on that very basis alone, and that way the values of the revenue estates all over Delhi may perhaps come to same. However, we find a Bench of this Court in Mani Ram Sharma v. Union of India, Rfa No.378/80, decided on 31 August 1984, fixed the market value of the land in village Ghazipur at Rs.5,000.00 per bigha. The court considered various judgments and also took notice of the judgment of Mr. N.C.Kochhar, Additional District Judge, wherein he had fixed the market value of the land in village Mandawali Fazalpur at Rs.4,000.00 per bigha. In this appeal before the court reference was made to the market value of the land fixed of the village Karkardoma and it was submitted that Karkardoma adjoins the village Ghazipur. The market value of the land in the village Karkardoma was fixed at Rs.6,000.00 per bigha and the notification was also dated 13 November 1959. Yet the court fixed the market value of the land in the village Ghazipur at Rs.5,000.00per bigha. Following that judgment we are of the view that market value of the land in question situated in the village Khichripur should also be fixed at Rs.5,000.00 per bigha which we order. We will, Therefore, direct that whatever bad been paid to the appellant should be deducted. In addition to the compensation so awarded the appellant shall be entitled to the solarium at the rate of 15% and interest the rate of 6% per annum from the date dispossession till payment. As there is a difference of more than three years between the notification u/s 4 (13 November 1959) and the declaration u/s 6 (20 June 1966) the appellants are allowed interest at the rate of 6% per annum on the market value of the land u/s 4(3) of the Land Acquisition (Amendment & Validation) Act, 1967, provided there is no overlapping in the payment of interest u/s 4(3) of the Amendment Act and section 28 of the Act. The appeal is allowed to the extent mentioned above. The appellant shall also be entitled to costs limited to court fee only.