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**(1993) 07 DEL CK 0028**

**In the Delhi High Court**

**Case No :** Regular First Appeal No. 128 of 1984

Bijay Singh

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 19-07-1993

**Acts Referred:**

Land Acquisition Act, 1894 — Section 23

**Citation :** (1993) 52 DLT 15 : (1993) 27 DRJ 17

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

**Bench :** Division Bench

**Advocate :** Atul Kumar, for the Appellant;

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## **Judgement**

D.P. Wadhwa, J.

(1) This appeal filed u/s 54 of the Land Acquisition Act (for short the Act) is directed against the judgment dated 27th January 1984 of the Additional District Judge in a reference made to him u/s 18 of the Act. The land in question is situated in Village Jasola. Notification u/s 4 and declaration u/s 6 of the Act were both issued on 31st December 1976. The Land Acquisition Collector made his award on 2nd February 1979 fixing the market value of the land at Rs.7.060.00 per bigha. On a reference u/s 18 of the Act, the learned Additional District Judge fixed the market value of the land at Rs. 10.000.00 per bigha. Still not satisfied, the appellants have filed this appeal.

(2) When the appeal was originally filed, it was stated that the market value of the land was Rs.30,000.00 per bigha. However, during the pendency of the appeal, the appellants have sought amendment of the memo of appeal now claiming Rs.55,000.00 per bigha as the market value of the land. This is by an application (C.M. 108/92). We had issued notice of this application but there has not been any response to the same. The application, Therefore, is allowed.

(3) MR.ATUI Kumar, learned counsel for the appellants, has referred to a decision of this Court in Rfa 51/83 entitled union of India Vs. Nand Kishore wherein a

bench of this Court, by judgment dated 6th March 1984, upheld the fixation of market price of the land in Village Bahapur at Rs.55,000.00 per bigha. This value had been arrived at by the Additional District Judge on a reference made to him u/s 18 of the Act. we may, however, note that in this case, the notification u/s 4 of the Act was of the year 1972. In the present case, as noted above, the notification u/s 4 of the Act is of the year 1976. It is not our opinion that same value is to be arrived at in this case just because two villages are adjacent to each other but there is a difference of four years in issue of notification in the present case and that in Rfa 51 /83.

(4) We had heard this matter on 12th July 1993 and again today. There has been no appearance on behalf of respondent/Union of India to oppose this appeal.

(5) Keeping in view the decision of this Court in Rfa 51/83, we are of the opinion that the market value of the land in Village Jasola, village adjacent to that of Village Bahapur, in the present case should be fixed at Rs.55,000.00 per bigha. We order accordingly.

(6) The appeal is allowed. The market value of the land in question is fixed at Rs.55,000.00 per bigha. There will be an enhancement of Rs.45,000.00 per bigha on the value as fixed by the Additional District Judge. The appellant will be entitled to interest and solarium as per Section 23-B and Section 28 of the Act. The decree will be drawn up after the deficiency in court fee is made. The court fee may be paid within a period of four weeks. The appellants will be entitled to costs limited to court fees only.