(1990) 08 DEL CK 0048

In the Delhi High Court

Case No : Regular First Appeal No''s. 159, 162, 163, 208, 224, 225 and 242 of 1972, 296 of 1975 and 214 of 1982

Chet Ram Vashisht and Others — APPELLANT

Vs

Union of India — RESPONDENT

Date of Decision : 07-08-1990

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (1990) 42 DLT 466

Hon'ble Judges : Usha Mehra, J;S.B. Wad, J

Bench : Division Bench

Advocate : V.P. Singh, N.S. Vashisth, Sanjay Lamba and H.K. Gangwani, for the Appellant;

Judgement

Usha Mehra, J.

(1) The appellant''s land measuring 8 being 19 bids was situated in Revenue Estate of Village Chaukhandi was acquired vide Nov. Notification dated Nov. 13, 1959 u/s 4 of the Land Acquisition Act 1894, (hereinafter called ''the Act''). The notification containing the declaration of intended acquisition u/s 6 of the said Act was made on October 8, 1965. The Award given by the Land Acquisition Collector bearing No. 1955 of Village Chaukhandi dated March 2, 1967, classified the whole land into two blocks i.e. A and B. For block A compensation allowed was at the rate of Rs. 3000.00 per bigha and for block B at the rate of Rs. 1000.00 per bigha. Whole of the land of the appellant fell in block A. However, on a reference having been made to the Additional District Judge u/s 18 of the Act, Shri K.S. Siddhu the then Learned Additional District Judge on appeal enhanced the compensation of the land to Rs. 9000.00 per bigha. In this appeal the appellant has contended that the learned Addl. District Judge ignored the vital evidence with regard to the market value of the land, reference in this context was made to the instances of sale certificates EX. A-6 to Ex. A-8 of Tilak Nagar, which according to the appellant was in the close proximity of the land of the

appellant. Plots were sold there at the rate of Rs. 39.00 to Rs. 4 %- per sq. yard. These sale certificates indicated the real market value of the land. These sale certificates related to the sales that were effected during the relevant time.

(2) In the Revenue Estate of Village Chaukhani itself, there were two well-developed colonies, Ganga Ram Vatika and Shyma Pershad Mukerjee Park which were approved by the Municipal Corporation of Delhi prior to the issuance of notification u/s 4 of the Act. All amenities of life such as electricity water, bus service and telephone were. easily available. Plots were sold and buildings have been constructed. Plots at the relevant time were being sold at the rate of Rs. 50.00 per sq. yard: Learned Addl. District Judge, according to appellant, wrongly brush aside the sale certificates Ex. A-6 to Ex. A-8 on the ground that the sale certificates pertained to small plots, safe of which invariably fetch more price. Furthermore, value of sale certificates was paid against claims of displaced persons.

(3) Aggrieved by the decision of the Additional District Judge present appeal has been preferred by the appellant claiming that he should be paid compensation at the rate of 15.00 per sq, yard or Rs. 15,000.00 per bigha.

(4) Reliance has been placed on the statement of Shri Chet Ram a coloniser of the colony known as , Ram Vatika". According to him the value of the land in the revenue estate of Village Chaukhandi at the relevant time valued at the rate of Rs. 15.00 per sq. yard or Rs. 15,000.00 per bigha, and in support thereof, sale certificate marked Ex. A-3, Ex. A-6 to Ex. A-8 had been relied upon.

(5) APPELLANT''S main grievance is that learned Additional District Judge after having accepted his contention that his land fell in West Delhi Municipal Committe, having potential value and being in close proximity of revenue estate of Tilk Nagar, Tihar and Titarpur could not have refused his claim @ Rs. 15.00 per sq. yard. Learned Addl. District Judge has admitted that the provision of Delhi Land Reforms Act, 1954 did not'' apply to the land in question. Hence his claims for enhancement @ Rs. 15,000.00 per bigha was well laid. In fact, number of residential buildings had come up in the adjoining land in the revenue estate of Tilak Nagar. Titarpur and Tihar. Since the land acquired is surrounded by developed colonies and that it could similarly be developed into residential-cum commercial plots, appellant is entitled to enhanced compensation.

(6) Mr. V.P. Singh contended that the learned Addl. District Judge without any sufficient and good reasons discarded the judgment in the case of Bimla Devi v. Union of India (copy of judgment in L.A. Case No. 530 of 1962)(Ex. A-7) in which Shri M.R. Sikka, Addl. District Judge awarded compensation at the rate of Rs. 14.00 per sq. yard. This was discarded by the learned Addl. District Judge simply on the ground that it related to a small plot measuring about 100 sq. yard.

(7) Mr. Singh has placed reliance on Ex. A-2 in the case of Raj Gopal v. Union of India &.Anr. (Copy of judgment in L.A. case No. 196/66). This pertained to the revenue estate of Tihar. It was also acquired in pursuance of the notification

issued on November 131959. As in the present case, while discussing the quality of the land in the case of Raj Gopal (Supra), the learned Addl. District Judge came to the conclusion that the said land was underdeveloped land and was situated at quite some distance from the land in question.

(8) The land of Ex. A-2 was evaluated at the rate of Rs. 9000.00 per bigha. Relying on this, the learned Addl. District Judge awarded compensation to the appellant at the rate of Rs. 9000.00 per bigha.

(9) EX. A-3 is. a copy of the judgment in L.A. Case No. 156 of 1966 Kishan Gopal v. Union of India pertaining to the land situated in the area of Village Tihar and .acquired in pursuance of the notification issued on November 13, 1959. In Kishan Gopal''s case (Supra) the learned Addl. District Judge evaluated it at a rate higher than the rate of the land of Ex. A-2. The learned Addl. District Judge while not relying on Ex. A-3 explained that the said land had already been developed to some extent, Therefore, the rate of valuation arrived at vide Ex. A-3 was not applicable.

(10) As already discussed above, the instances embodied in Ex. A-3 Fx A-6 to Ex. A-8 were not taken into consideration for the simple reasons that they related to small plots in the highly developed colony though in close proximity Moreover, the purchase price in sale certificates Ex. A-6 to A-8 was ousted against verified claims of the displaced persons. Therefore, relying at the instance of Ex. A-2, he enhanced the compensation to Rs. 9,000.00 per bigha.

(11) Admittedly, the land in question was in a close proximity of the Revenue estate of Tilak Nagar as in apparent from the certificate issued from the certificate issued from the Municipal Corporation of Delhi. According to the sanctioned lay-out plan for development of Ganga Ram Vatika which colony was carved out from this very village, it can be safely inferred that the land in question had all the potentialities of developing into a colony. Hence the market value for such a land is bound to be higher than the land situated in the revenue estate of Titarpur. This court in the case of Bhanwar Singh & Ors. v. Union of India in R.F.A. No. 441/79 decided on 29th August,]981 while dealing with the case of compensation of land in the revenue estate of Titarpur awarded the compensation @ Rs. 12.000.00 per bigha. From the admitted facts on record the land in question had better potentiality than the land in the revenue estate of Titarpur. Ex. A-1 pertain to the revenue estate of Tilak Nagar where the award was for the land acquired was given @ Rs. 14.00 per sq. yard. That was the land situated at a distance from the land in question.

(12) After noticing the observation in the cases referred to above and after perusing the evidence concerning the land involved, specially when it is similarly situated and has got the same potentialities of development as Ganga Ram Vatika and Sayama Pershad Mukherji Park as well as Tilak Nagar, the petitioner would be entitled to enhanced compensation. It is trite that the expression, "market value" means the value which willing seller may expect from a willing

purchaser in open market and the theory of potential value to the owner is something more than a mere market value. All factors such as location of the land to be acquired, adoptability and advantages the purpose for which the land can be used in the most'' lucrative way, its potential value the locality situation and the size and the rising tread of the market value in the locality came in for. consideration, .of course, the criterion being the value to the owner as it-existed, at the date of notification u/s 4 and'' not the value to the person for whose benefit it is acquired. The proposition that bigger area of land cannot possibly fetch a prior at the same rate at which small plots are sold, is not an absolute proposition and in giving circumstances it would be* permissible to take into account the price fetch by small plot of land'' specially in a case where compensation of and with building potentiality is to be determined for the land is to be valued. Even, if we do not rely on the price of the land which was fetched after adjusting the verified claim of displaced persons, still we cannot lose sight of other surrounding circumstances as mentioned above, while fixing the enhanced value.

(13) Keeping in mind the fact that the entire land of the appellant is situated and surrounded by developed land of Ganga Ram Vatika. Tilak Nagar and Shyama Pershad" Mukherji Park i.e. in close proximity of well-developed colonies. Therefore, it cannot be urged that the land in question does not possess the potentialities of being developed into small plots of land for building purposes. If the rate of the land in Titarpur was enhanced in R.F.A. No. 441/79 to Rs, 12,OUO.00 per bigha, there is no reason why the value of the land of the appellant, which is in close proximity of fully developed are should not be enhanced to Rs. 15,000.00 per bigha (as claimed by him) The Division Bench at Delhi in Case : D.L.F. Housing and Construction (P) Ltd. Vs. Union of India (UOI), observed :

"IT is a matter of common knowledge that prices of land in Delhi have jumped by leaps and bounds progressively since 1950 on wards"

(14) Therefore, taking into consideration Ex. A-3 decision as well as the case of R.F.A. No, 441/79 and sale certificates produced by the appellant ,we are of the opinion that appellant is entitled to compensation @ Rs. 15,000.00 per bigha as claimed by him. He is also entitled to solarium at the rate of 15% on the enhanced amount and interest at the rate of 6% per annum, on the enhanced amount of compensation from the date when the possession of his land was taken till the date of payment.

(15) The enhanced amount of compensation shall be payable only after the payment of additional court fee by the appellant.

(16) The appeal with the above observation on is allowed with costs. Bank guarantees if any shall stand discharged.

