(2011) 06 DEL CK 0025

In the Delhi High Court

Case No : LA. APP. 489 of 2008

Chiranji Lal APPELLANT

Vs

Union of India (UOI) and Another RESPONDENT

Date of Decision : 02-06-2011

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (2011) 06 DEL CK 0025

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Shyam Sunder, in LA. app. 489/2008, S. Chaturvedi and R.S. Dalal, in 1089, 1090, 1091, 1162 and 1163/2008 and 212/2011, for the Appellant; Sanjay Poddar, Ashish Tanwar for UOI, Indrani Ghosh and Shobhna Takiar for DDA, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—Vide impugned decisions the Reference Court has held that the Appellants are not entitled to any enhancement of the compensation assessed by the Land Acquisition Collector.

2. The appeals relate to lands in village Ghewra, which were the subject matter of acquisition pursuant to a notification dated 6.2.2003 issued u/s 4 of the Land Acquisition Act 1894.

3. In the decision dated 19.12.2008, deciding a batch of Land Acquisition Appeals, lead matter being LA.APP. No. 193/2006 Pratap Singh (Thru L Rs) v. UOI and Ors., pertaining to lands in the revenue estate of village Tikri Kalan and village Ghewra; holding that the 2 lands were of equivalent nature, and I note that the 2 lands are situated on the either side of a railway line, the Division Bench assessed the market value of the land in village Tikri Kalan, as of 16.11.1995 @ Rs. 2,15,160/- per bigha for Block-A land and pertaining to a notification u/s 4 of the Land Acquisition Act dated 11.6.1996, had determined the compensation for Block-A land at Rs. 2,35,815/- per bigha.

4. Thereafter, with reference to village Tikri Kalan, pertaining to a notification issued u/s 4 of the Land Acquisition Act 1894 on 17.12.2002, the Division Bench determined the compensation at Rs. 4,02,850/- per bigha on the following reasoning:

Since we have revised the market value in respect of the aforesaid Award at Rs. 2,35,815/- for Block-A and Rs. 1,90,156/- for Block-B, further enhancement has to be given on these rates for the period from 17.11.1995 to 17.12.2002. However, at the same time, we are of the view that in these cases enhancement @12% p.a. should not be given because of the reason that in some of these areas the market value of the land had even gone down. Therefore, taking holistic view of the matter and balancing the upward and downward trends, we are of the opinion that interest of justice would be subserved if enhancement is granted @10% p.a.

5. It be noted that in the instant cases, I am concerned with a notification dated 6.2.2003 which is 50 days after the notification dated 17.12.2002, which was discussed by the Division Bench in para 49 of its decision, relevant extract whereof is reproduced herein above.

6. A perusal of the decision of the Division Bench would reveal that in para 42, pertaining to the notification dated 16.11.1995 it had determined the rate Rs. 2,15,160/- per bigha and applied 12% enhancement per annum, in para 45, with

page 4 of 8 reference to the date 16.11.1995 and the figure of Rs. 2,15,160/- stood enhanced to Rs. 2,35,815/- pertaining to a notification dated 11.6.1996.

7. It is thus apparent that in the relevant extract of para 49, hereinabove extracted, there is an obvious typographic error. If in the second line extracted herein above, the figure has to be Rs. 2,35,815/-, then the date in the 4th line has to be 11.6.1996 and not 17.11.1995. Vice versa, if the date in the 4th line has to be taken as 17.11.1995, the sum in second line has to be taken at Rs. 2,15,160/-.

8. The error by the Division Bench has resulted, it is apparent, in a higher sum being worked out at Rs. 4,02,850/- per bigha and for which I am told necessary applications seeking review/correction have been filed before the Division Bench.

9. The Division Bench would obviously do the necessary correction, however, as far as this Court is concerned, it is the reasoning which is relevant and not computation thereof.

10. The reasoning of the Division Bench would be that as of 17.11.1995 the market value assessed would be Rs. 2,15,160/- per bigha and the same would stand enhanced to Rs. 2,35,815/- per bigha as of 11.6.1996.

11. The further reasoning of the Division Bench which binds this Court would be the finding that there was initially a steeper percentage rise in the value of the land which subsequently fell. The Division Bench held that till the year 1996 the

increase was 12% per annum and thereafter it was 10% per annum.

12. If I was to apply the aforesaid logic of the Division Bench, which binds me, treating the fair compensation assessed at Rs. 2,35,815/- per bigha as of 11.6.1996 or conversely taking the figure to be Rs. 2,15,160/- as of 17.11.1995, compensation as of 6.2.2003 would require to be worked out in view of the percentage increase held admissible by the Division Bench.

13. If I assess the compensation with respect to the date 17.11.1995, I will have to take the base figure of Rs. 2,15,160/- and enhance it by 12% for one year and thereafter 10% per annum. If I take the figure of Rs. 2,35,815/- the base date would be 11.6.1996 and thereafter the percentage increase would be 10% per annum.

14. I prefer to adopt the latter date i.e. 11.6.1996 and hence the higher sum of Rs. 2,35,815/- per bigha.

15. Learned Counsel for the Appellants would urge that the Government of Delhi, from time to time, enhanced the minimum rate of compensation which it offered to pay upon land being acquired and the same evidences that between the year 2001 till the year 2008, the percentage increase per year was 16%.

16. Learned Counsel further submits that the reduction in the incremental value of the land from 12% per annum to 10% per annum determined by the Division Bench, with respect to the notification dated 17.12.2002 has to be appreciated with reference to the sale deeds pertaining to village Tikri Kalan, and discussion of the Division Bench shows that post 1996, in village Tikri Kalan, the percentage increase had come down vis-a-vis the previous sale deeds; and whereas in the past the increase was 12%, post 1996 it came down to 10%. Counsel seeks to urge that as regards village Ghewra there was no such evidence.

17. The pleas by learned Counsel for the Appellants are rejected for the reason the Government of Delhi issues the notifications pertaining to the minimum rate it would pay and these rates apply to all agricultural lands in Delhi irrespective of the situation, potentiality etc. The Appellants are not seeking the rate as offered by the Government and thus cannot say that discarding the rates, the percentage increase offered by the Government should bind the Government. As regards the second plea, we see no reasoning in the Division Bench judgment as is projected by learned Counsel that the Division Bench found that in village Tikri Kalan the percentage increase in land price post 1996 came down to 10% per annum and not in village Ghewra. In fact the decision would show that the Division Bench treated lands in the two villages at par.

18. Thus, with respect to the price Rs. 2,35,815/- per bigha as of 11.6.1996 and giving 10% increase per annum the fair market value of the land of the Appellants works out to Rs. 4,03,425/- per bigha and thus we dispose of the appeals enhancing the compensation payable to the Appellants to Rs. 4,03,425/- per bigha. We further decree that the Appellants would be entitled to solatium

and interest as per statute and as clarified in the decision reported as Sunder Vs. Union of India,

19. Proportionate costs are also awarded.

20. All pending applications stand disposed of in terms of the prayers made therein and cross objections, if any, filed by Union of India are dismissed.