

(1992) 10 DEL CK 0042

In the Delhi High Court

Case No : Regular First Appeal No's. 288 and 299/68

Dewan Ram Saroop deceased Lrs. and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 23-10-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (1992) 24 DRJ 460

Hon'ble Judges : R.L. Gupta, J; D.P. Wadhwa, J

Bench : Division Bench

Advocate : Hemant Malhotra and K.J.S. Kalra, for the Appellant; B.S. Mathur, for the Respondent

Final Decision : Allowed

Judgement

D.P. Wadhwa, J.—These two appeals filed u/s 54 of the Land Acquisition Act, 1894 (for short "the Act") pertain to village Khizarabad in the Union territory of Delhi. Notification u/s 4 of the Act was issued on 3 June 1961 and declaration u/s 6 on 27 October 1961. The award by the Land Acquisition Collector was made on 27 February 1962. He divided the land in two blocks and fixed market value of the land in Block A at Rs. 4,000/- per bigha and that in Block B at Rs. 2,500/- per bigha.

2. In fact there are two different awards. In RFA 288/68 the award number is 1287 and the land measuring 1 bigha 2 biswas, but we are concerned with 4/5th of this land, i.e., 800 sq. yds. in this appeal. In RFA 299/68 the award number is 1283 and it pertains to khasra No. 2/4/1 measuring 10 bids was and in appeal we are concerned with 4/5th of this, i.e., 400 sq.yds. of land.

3. The Collector awarded compensation at the rate of Rs. 2,500/- per bigha. On a reference made u/s 18 of the Act, the learned Additional District Judge by the impugned judgment which is dated 16 April 1968 fixed the market value of the land at Rs. 5,000/- per bigha and thereby giving enhancement of Rs. 2,500/- per

bigha. Not satisfied the present two appeals were filed and when originally filed the appellants sought enhancement of compensation at Rs. 10/- per sq. yd., i.e. Rs. 10,000/- per bigha. On an application filed under Order 6 Rule 17 and Section 151 of the Code the claim made in appeal was sought to be enhanced to Rs. 30,000/- per bigha in RFA 288/68. This application was allowed. A similar application is, however, pending consideration in RFA 299/68.

4. The impugned judgment is quite a considered one and the learned Additional District Judge noticed the contention of the appellants that the value of the land in the year 1961 must be at least Rs. 15/- per sq. yd. The appellants produced copies of sale deeds showing sale of land in village Khizarabad (Exts. A-11 to A-16) where the land measuring 150 sq. yds. or so had been sold for Rs. 1,500/- in February 1958 and that measuring 200 sq.yds. or so for Rs. 2,000/- also in February 1958. By sale deed Ext.A-16 another piece of land measuring 100 sq.yds had been sold for Rs. 1,000/- in April 1957. These plots had been carved out in what is now known as Bharat Nagar, an undeveloped colony. All these pieces of land form part of khasra No. 13 and on this basis it was argued that the average sale price was Rs. 10/- per sq. yd. in the year 1958. The learned Additional District Judge, however, noticed that in the case before him the plots were of bigger size and he was, Therefore, of the view that since plots of smaller size fetched more price, these sale deeds could not give a proper indication of the market value of the land in question on the date of notification u/s 4 of the Act. The appellants had also produced a sale deed (Ext.A-9) regarding sale of house built on a plot of land measuring 1845.6 sq. yds. in the New Friends Colony, New Delhi, a fully developed colony. The sale deed is dated 5 December 1960 and the sale consideration Rs. 1,10,000/-. The agreement to sell was entered into on 31 October 1960. The sale deed does not indicate the built up area of the house. It is, Therefore, no indication of the market value of the land in question (Khasra No. 12) which, though, it is stated to be situated 500 yards or so away from the property subject-matter of the aforesaid sale deed and which is undeveloped one. The appellants also produced evidence of sale of 1 bigha 8 bids was of land in village Bahapur by sale deed (Ext. A-17) dated 30 April 1958 for a consideration of Rs. 34,200/-. It has also come in evidence that khasra No. 2/4/1 is near Holy Family Hospital at a distance of 100 yards from the back of the hospital. The hospital is situated in village Jogabai on the main road leading from Mathura Road to Okhla. Bharat Nagar Colony is at a distance of about 200 yards from field No. 2/4/1. Village Khizarabad is also contiguous to village Bahapur abutting on the main Mathura Road where Ishwar Nagar Co-operative Society has built houses. Village Khizarabad, Therefore, appears to be surrounded by villages Bahapur, Jogabai and the lands of the village where Maharani Bagh and New Friends Colony (Village Kilokari) have come up. Stress was laid before us about the value of the land in New Friends Colony and Maharani Bagh. Reference was also made to certain Bench decisions of this Court where compensation at the rate of Rs. 26,000/- per bigha and even Rs. 33,000/- per bigha had been awarded for the lands situated in New Friends Colony.

5. We are not impressed by the argument that since higher amount of compensation had been awarded for lands where New Friends Colony has come up, the same amount of compensation should also be awarded for the lands in question. This argument has to be limited in its scope in the facts and circumstances of each case. Even otherwise if one village is contiguous to the second, the second to the third and third to the fourth, this way we may reach the limits of Union territory of Delhi and maybe perhaps beyond that, and would not, Therefore, be a correct approach. When we have evidence of the market value of the land of a particular village itself, we do not think it necessary to go to the market value of the land of adjoining villages. In *Delhi Simla Catholic Archdiocese v. Union of India* (RFAs 454 & 455 of 1968, decided on 23 May 1991) this Court fixed the market value of the land in village Jogabai abutting on the Okhla Road at Rs. 15,000/- per bigha where notification u/s 4 of the Act respecting this land was issued on 13 November 1959. The land in question is certainly away from the Okhla Road as well as from the main Mathura Road, a National highway.

6. By various judgments and one *C. Bhagirathamma Vs. Union of India and Another*, this Court had been awarding compensation for land acquired in village Kilokari at the rate of Rs. 26,000/- per bigha. In *Delhi Simla Catholic Archdiocese* we have noticed that this Court in two appeals fixed the market value of the land in village Bahapur at the rate of Rs. 19,000/- per bigha where the land was situated on the main Mathura Road and Rs. 16,000/- per bigha when it was away from the road. Thus, we have the market value of the land in village Bahapur at the rate of Rs. 19,000/- per bigha and even at Rs. 16,000/- per bigha, that in village Jogabai at the rate of Rs. 15,000/- per bigha and that in Kilokari at the rate of Rs. 26,000/- per bigha. We have also, as noted above, the evidence of the market value of the land in village Khizarabad itself which as per Section 23 of the Act would be the only relevant factor or evidence to arrive at the market value of the land in question. In 1958 the market value was Rs. 10/- per sq. yd. if we refer to sale deeds though of smaller plots. In awarding compensation some amount of guess work is certainly required and we are of the opinion that rate of a bigger plot of land would be Rs. 9.50/- per sq. yd., i.e. Rs. 9,500/- per bigha. Adding to this increase of price at the rate of rupee one per square yard per year, the market value of the land in the year 1961 would come to Rs. 12,500/- per bigha which according to us would be the correct market value of the land in question. These appeals are accordingly allowed and the market value of the land is fixed at Rs. 12,500/- per bigha. The appellants will be entitled to solarium at the rate of 15% on the market value of the land and interest at the rate of 6% per annum from the date on which the Collector took possession of the land till the date of payment. Appellants will also be entitled to proportionate costs limited to court fee only.

7. C.M. No. 359/92 in R.F.A. No. 299/68 is allowed. Decree in this appeal will be drawn up after deficiency in court fee is made up.