(1978) 08 DEL CK 0012

In the Delhi High Court

Case No : Regular First Appeal No. 146 of 1966

DLF United Ltd APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 24-08-1978

Acts Referred:

Citation : (1978) 14 DLT 251

Hon'ble Judges : Leila Seth, J

Bench : Single Bench

Judgement

Parkash Narain and Leila Seth, JJ.

(1) These two first appeals, Rfa No. 146-D of 1966 and Rfa No. 147-D of 1966, are directed against the judgments/awards of the Additional District Judge, Delhi dated 16th May, 1966 in L.A.C. No. 733 of 1963 and 692 of 1963 by which the rate of the compensation was assessed at Rs. 5450.00 per bigha.

(2) By a notification u/s 4 of the land Acquisition Act, 1894 hereinafter referred to as the said Act), dated 13th November, 1959, lands in village Sarai Shahji was notified for intended acquisition. A declaration u/s 6 of the said Act was made on 1st February, 1962. The purpose of the acquisition was the "Planned Development of Delhi". Thereafter, the land acquisition collector took proceedings to acquire the land. In R.F.A. 146-D of 1966 the appellant is Dlf united Ltd. and the land comprised in Khasra Nos. 45, 46, 48/2, 49/2, 50/2, and 143/84 measuring 7 bighas 3 bids was is covered by the above mentioned notification. In Rfa NO. 147-D/66the appallant is Messrs Navin Co-operative Urban Thrift and Credit Society and the land comprised in Khasra Nos. 142/84, 203/135, 86, 175/99, 85 and 87 is covered by the above mentioned notification. The land Acquisition Collector by his Award No. 1389 dated 26th October, 1962 decided the whole of the acquired area into two blocks, namely, A and B which were evaluated at Rs. 4000.00 and 3000.00 per bigha respectively. The fields of appellant Dlf United Ltd., were placed in Block B and compensation was awarded at the rate of Rs. 3000.00 per bigha. The field of appellant Navin co-operative

Urban Thrift and Credit Society were also placed in Block B except for Khasra Nos. 303/135 which was placed in Block A and compensation awarded accordingly.

(3) Being dissatisfied with the compensation awarded, the appellants moved the land Acquisition collector to make references u/s 18 of the said Act. The reference were disposed of by the Additional District Judge by his judgment/ award in land Acquisition case No. 733 of 1963 and land acquisition case No. 792 of 1963 dated 16th may, 1966 repsectively. The additional District Judge fixed the market value of the land at Rs. 5400.00 per bigha, irrespective of the fact whether it was in Block A or B. Not being satisfied the appellants have appealed to this Court.

(4) The appellants claim is Rs.9000.00 per bigha. The appellant in Rfa 147D/66, M/s-Navin Co-operative Urban Thrift and Credit Society, purchased the acquired land from the Dlf United Ltd. on 14th December, 1959. Dlf United Ltd., had purchased these lands on 5th May, 1959 from Nather and others at the rate of Rs.5450.00 per bigha as per the sale deed Ext. A 14 in Rfa 146-D/66. In Rfa 146-D/65, the Additional District Judge has mainaly selied on this sale deed dated 5th May, 1959 and Ext. 61, mutation No. 410 regarding a sale on 22nd September, 1954 at Rs. 4500.00 per bigha pertaining to field Nos. 5,7,14 and 16 in assessing the rate of compensation In Rfa 146-DI-66 the Additional District Judge has relied on these two above mentioned Sales as also the third sale of the acquired land by the Dlf United Ltd. in favor of M/S Navin Co-operative Urban Thrift and Credit Society dated 14th December ,1959 for Rs. 5000.00 per bigha.

(5) Learned Counsel for the appellants has urged, inter alia, that the Additional District Judge has failed to appreciate, that the acquired land when purchased by Dlf United Ltd. on 5th May, 1959 (Ext. A 14 in Rfa 146-D/66) possessed the character of agricultural land. The character of land, however, changed from agricultural land to building site as soon as it was purchased by Dlf United Ltd. which is a coloniser and the value of land in the hands of the appellants, coloniser Societies should have been assessed as building sites; he has also urged that the Additional District Judge has erroneously relied on Ext. C 1 as the lands therein are not similarly situate; the lands pertaining to Ext. C I are not on the main road adjoining a passage; the plots are scattered whereas the appellants lands formed a compact block and as such it is not a good comparison, further, the sale deed not being on record, it is difficult to assess why the price was low. It has also been urged in Rfa 147-D/66 that the sale by Dlf United Ltd. in favor of Navin Co-operative Urben Thrift and Credit Society on 14th December, 1959 was to a cover and as such not indicative of the correct market value. The appellants, however, want us to rely on sales evidenced by Exts. A3, A4, A8 and A17 which relate to lands in adjoining localities.

(6) The sale recorded in Ext. A4 was made by the Ministry of Rehabilitation on 15th November, 1960 and is long after the date of notification and as such is not relevant. The sale certificate Ext. A3 relates to sale of a field No. 237 in the

Estate of Kalu Sarai on 29th November, 1959 for Rs. 9500.00 per bigha. At this sale price was paid by adjustment of displaced persons claims, market price where of was 11 Annas to a rupee on the dates of sale and as such this would reduce the per bigha price as evidenced by Ext. A3 to Rs. 650O.00 per bigha. This is on admitted fact. As which is a copy of mutation No. 665 shows a sale of 9 bids was area bearing Khasra No. 353/79 in the Estate of Shekh Sarai on 16th June, 1959 at the rate of Rs. 9000.00 per bigha by the Ministry of Rehabilitation. Since this sale is presumably by adjustment of displaced persons claims, the correct market value would be about Rs. 6500.00 per bigha. Ext. A17 records a sale of khasra No. 866/349 measuring 8 bids was in the Estate of Shapuljat 11th August, 1959 at the rate of Rs. 7500.00 per bigha. This field lies on a road behind Hauz Khas Enclave. These sales are indicative of the price in the area being in the range of Rs. 6500.00 per bigha.

(7) However, learned counsel for the appellants has urged that taking all these transactions into account and the rising trend in land prices, as also the fact that the auctions were open to the public is such competitive and not restricted to displaced persons, the Compensation should be as sessed Rs. 9000.00 per bigha.

(8) Learned Counsel for the respondent however, contends that the best evidence is the sale by the appellant in Rfa 146-D/66, Dlf United Ltd., to the appellant in RFA147-D 66, M/s Navin Co-operative Urban Thrift and credit Society, at the rate of Rs. 5000.00 per bigha on 14th December, 1959 and the purchase by Dlf United Ltd. On 5th May, 1959 at the rate of Rs. 5450.00 per bigha and the appellants should be bound by their own purchase and sale. Further there was another sale on 22nd September, 1959 for Rs 45,00.00 per bigha (Ext. Cl in Rfa 146-D/66) and these three sales are indicative of the fact that the price of land in that area remained more or less constant and was not increasing. The fact that the lands in dispute are a compact plot and not scattered as the lands in Ext. Cl, is a factor which has to be taken into consideration in assessing the rate of compensation. This factor does not seem to have been considered by the Additional District Judge. Nor does he appear to have given weightage to the fact that the land has been purchased by a coloniser and as such the potential land value would appreciate. Further he failed to appreciate that the sale by Dlf United Ltd, to M/s Navin Co-operative Urban Thrift and Credit Society was to a sister concern (evidence of A.W. In Rfa 147-D/66) and would not be indicative of the real market value. The price of land in adjoining localities was about Rs. 6500.00 per bigha.

(9) In the circumstances, we feal that an enhancement of Rs. 1550.00 per bigha, making the rate of compensation as Rs. 6000.00 per bigha would be more appropriate. We hold accordingly. As such the appeal is partly allowed. The amount of compensation will be calculated accordingly. The appellants will also be entitled to 15 per cent solarium with interest at 6 per cent per annum from the date the collector entered into possession till payment is made on the enhancement granted by us. The parties to bear their own costs.