
(2002) 07 DEL CK 0154

In the Delhi High Court

Case No : Regular First Appeal 131 and 404/84 and 227/88

Dula Ram

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 19-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 54, 6

Citation : (2002) 99 DLT 564

Hon'ble Judges : Shamik Mukherjee, J;Devinder Gupta, J

Bench : Division Bench

Advocate : R.P. Singh, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Allowed

Judgement

1. These three appeals preferred u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) are for further enhancement in the amount of compensation. Though the notifications under which claimants lands were acquired were issued on different dated but appeals can conveniently be disposed of by a common judgment.

2. In RFA 404/84 the claimants land situate in village Ladha Sarai was acquired for public purpose, namely, Planned Development of Delhi through notification issued u/s 4 of the Act on 23.9.1968. The Collector Land Acquisition made his award No.26/74-75 dated 28.3.1975.Compensation was offered @ Rs.3,000/- per bigha. Feeling dis-satisfied reference was sought. The reference court by the impugned award dated 24.4.1984 assessed market value of part of the land at Rs.4,000/- per bigha and for remaining part @ Rs.3,500/- per bigha. In RFA 227/88 subject matter of appeal is land situate in village Ladha Sarai, Delhi acquired for Planned Development of Delhi through notification issued on 23.1.1965 u/s 4 of the Act which was followed by declaration dated 6.1.1969 u/s 6 of the Act. The Collector Land Acquisition on 7.3.1981 made his award No.122/80-81 offering compensation @ Rs.3,300/- per bigha. On reference the reference court by the impugned award dated 18.9.1987 held the appellant

entitled to compensation @ Rs.4,445/- per bigha. Still feeling dis-satisfied appeal has been preferred for further enhancement in the amount of compensation.

3. RFA 131/84 is for further enhancement in the amount of compensation for land situate in village Ladha Sarai, which was acquired through notification issued u/s 4 of the Act on 4.5.1975. The Collector Land Acquisition made his award No. 7/77-78 offering compensation @ Rs.2,000/- per bigha. The reference court by the impugned award dated 21.2.1984 held the fair market value @ Rs.6,000/- per bigha. The appeal is now for further enhancement in the amount of compensation.

4. Some of the lands situate in village Ladha Sarai were earlier acquired for Planned Development of Delhi through notification issued u/s 4 of the Act on 13.11.1959. The Collector Land Acquisition had made two separate awards, namely, award No.27 and 28/74-75. In his awards while placing reliance upon the market rates which had been assessed by him for land situate in the adjoining revenue estate of Lado Sarai he offered compensation @ Rs.4,000/- per bigha for the land falling in category A and @ Rs.1,500/- per bigha for the lands falling in category B. The claimants feeling dis-satisfied had sought references. The reference court did not make any enhancement. The claimants still feeling dis-satisfied preferred appeals to this Court for enhancement.

5. Division Bench of this Court in Raj Kumar and Others Vs. Union of India, assessed fair market value of land situate in village Ladha Sarai as on 13.11.1959 @ Rs.12,500/- per bigha. While determining the amount of compensation for land situate in village Ladha Sarai this Court in Raj Kumar's case (supra) placed reliance on an earlier decision in Basti Ram vs. Union of India RFA 55/82 decided on 25.11.1999 wherein compensation had been determined with respect to land situate in village Lado Sarai, acquired for Planned Development of Delhi, through the same notification u/s 4 of the Act on 13.11.1959. In Basti Ram's case (supra) reliance was placed on another decision in Nand Kishore Vs. Union Of India, . In the said decision market value was determined by a Division Bench for the lands situate in village Mehrauli, which had been acquired through five separate notifications issued between 13.11.1959 to 21.11.1978. For the land which was acquired through notification dated 13.11.1959 market value was assessed at Rs.10,000/- per bigha. While making reference to Nand Kishore's case (supra) the Division Bench in Basti Ram's case (supra) made comparison of the land situate in village Lado Sarai with similar lands situate in village Mehrauli and Ad-chini and on comparison it was held that the land situate in village Lado Sarai had better location and potentiality than the land situate in village Mehrauli and for that reason market value was assessed at Rs.12,500/- per bigha for the land situate in village Lado Sarai acquired through notification dated 13.11.1959. In this view of the matter in Raj Kumar's case (supra) the Division Bench observed that the Collector himself had equated the land situate in village Lado Sarai to the land situate in village Ladha Sarai in all respects as regards potentiality, location and importance

and had proceeded to offer compensation on that basis further observing that the land situate at village Ladha Sarai was about a furlong towards Qutab, Delhi. The Division Bench thus held that there was no need to make fresh comparison of the acquired land situate in village Ladha Sarai with that of Mehrauli since the same was at par with that of village Lado Sarai. As such for the land situate in village Ladha Sarai market value was assessed at the same rate at which it had been assessed for the lands situate in village Lado Sarai.

6. Having considered the location, proximity, similarity and the advantage attached to the acquired land situate in village Ladha Sarai vis-?-vis the land situate in Ad-chini, Mehrauli and Lado Sarai reference may now be made to the market rates as assessed in the decision in Nand Kishore's case (supra).

7. In Nand Kishore's case (supra) market value of land situate in village Mehrauli through five different notifications was determined as follows:-

Date of notification Market value 13.11.1959 Rs.10,000/- per bigha 24.10.1961 Rs.12,000/- per bigha 23.1.1965 Rs.16,000/- per bigha 8.9.1971 Rs.22,500/- per bigha 21.11.1978 Rs.30,000/- per bigha

8. In view of the two decisions, namely, Nand Kishore's case (supra) and Raj Kumar's case (supra) where in in so far as village Mehrauli is concerned compensation stands determined for various notifications issued between 13.11.1959 to 21.11.1978 and the fact that the land situate in village Lado Sarai admittedly was having better location and potentiality than the land situate in village Mehrauli much effort is not required to be made in making determination of the market value with respect to the lands of the claimants acquired through three separate notifications dated 23.1.1965, 23.9.1968 and 4.5.1975. In the light of the determination of the compensation as on 13.11.1959 of village Lado Sarai the market value of land situate in village Ladha Sarai can be determined by allowing proportionate increase as was done in Nand Kishore's case (supra) and we accordingly fix the market value as under:-

Date of notification	Market value of land u/s 4 situate in village Ladha Sarai in Rupees per bigha	-----	-----	23.1.1965
	Rs.20,000/-	23.9.1968	Rs.24,000/-	4.5.1975 Rs.32,750/-

9. Consequently the appeals are allowed. Claimants are held entitled to compensation for their lands at the aforementioned market rate. In addition to the enhanced market value the claimants will also be paid solarium @ 30% and interest @ 9% p.a. of a period of one year from the date of the Collector taking possession and thereafter @ 15% p.a. till payment.

10. Interest will also be paid to the claimants on solarium in view of decision of Supreme Court in Sunder Vs. Union of India, .