

(1992) 07 DEL CK 0015

In the Delhi High Court

Case No : Regular First Appeal No. 425 of 1986

Gajinder Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-07-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (1992) 48 DLT 197 : (1992) 23 DRJ 557

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

Bench : Division Bench

Advocate : V.L. Jain and Sashi Kiran, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) This is an appeal filed u/s 54 of the Land Acquisition Act, 1894 against the order passed by learned Additional District Judge, Delhi on a reference made to him u/s 18 of the Act. Notification u/s 4 of the Act acquiring land of the appellant was issued on 4.9.1967 and the Notification u/s 6 of the Act was issued on 6.3.1968. The award is dated 21.11.81 bearing No. 41/81-82. By this Award, the Collector assessed the market value of the land at the rate of Rs. 1400.00 per bigha. Not satisfied, the appellant sought reference and by judgment dated 18.8.86. the learned Adj enhanced the market value of the land and fixed the same at the rate of Rs. 20, 000.00 per bigha. Still not satisfied the appellant filed this appeal claiming the market value at the @ Rs. 40,000.00 per bigha.

(2) Miss Jain, learned counsel appearing for the appellant has referred to two judgments in support of the appeal. One judgment (Ex. P-6) is given by Sh. S.R.Goel. Add). District Judge which is dated 29.3.1974. In fact, the impugned judgment before us is also by the same learned Judge. In this judgment (Ex.P-6) the land had been acquired under Delhi Municipal Corporation Act for laying certain water mains. The land was situated in the same very village and the Notification acquiring land was issued on 1.11.68. The learned Judge fixed the

marketing value of the land at the rate of Rs. 40.00 per sq. yards. He did not rely on his judgment in the present case for two reasons, one, that the water main line was laid after 11.9.1968 which is the date of Notification there and second. Union of India was not apart in that case. " We have seen the judgment Ex. P-6 and we find that the reasoning given by learned Judge is suffering from obvious faults. The judgment dated 29.3.74 (Ex. P6) is well considered judgment after taking into account all the relevant evidence. The main dispute is that case was not that between private party and the MCD in as much as we are concerned with the value of the land and the judgment was Therefore correct. The second judgment is of a Bench of this Court and is in Rfa No. 170 of 1971 and is dated 22.4.1987. In this case this Court awarded compensation at the rate fo Rs. 45.00 per sq. yards and the land was situate in village Dhaka. While Ms. Jain contends that Dhaka and Dahirpur is one village, contention of Ms. Shashi Kiran is that these are two separate villages though adjoining to each other. In Rfa No. 170/71 the Notification u/s 4 of the Act is dated 7.10.1964 and that of Section 6 of the Act is dated 29.12.64. As noted above, in the present case the Notification u/s 4 of the Act was issued on 4.9.67. Even if the village Dhaka and Dahirpur are adjacent to each other, we are of the view that taking into account the two judgments (Ex P-6 and that of Rfa 170/71), the impugned judgment does not give the proper market value of the acquired land of the appellant. We also Find that the village Dhaka is adjoining to developed colony Model Town and beyond this village is also developed colony which is called Nirankari Colony, Village Dahirpur is situated one and a half Km from main Mall Road (Kingsway Camp crossing). We are. Therefore, of the opinion that the market value of the land of the appellant should have been Rs: 40.00 per sq. yard. Accordingly, the appeal is allowed. The market value of the land is enhanced by Rs. 20.00 per sq. yards. We fix the market value of the land at the rate of Rs. 40.00 per sq. yard or Rs. 40,000.00 per bigha. The interest and solarium shall be as awarded by the Adj but on the amount of the market value fixed by us. Appellant will be entitled to cost limited to court fee.