
(1991) 07 DEL CK 0036

In the Delhi High Court

Case No : Regular First Appeal No. 262 of 1972

Hans Raj Bhalla

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-07-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1991) 45 DLT 131 : (1991) 21 DRJ 223

Hon'ble Judges : Dalveer Bhandari, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : C.L. Verma and B.S. Mathur, for the Appellant;

Judgement

Dalveer Bhandari, J.

(1) This appeal is directed against the judgment of the additional District Judge. Delhi, dated March 20, 1972.

(2) The land in dispute comprised of Khasra No. 350/135 and 342/135 measuring 3 bighas and 11 bids was situate in village Kalu Sarai, was acquired by the Delhi Administration turn the planned development of Delhi, in pursuance to Notification No. F. 4 2/62-L&H, dated August 3. 1963 and consequently Award No. 1947 of village Kalu Sarai ensued whereby the land in dispute was assessed at the rate of Rs. 7.300.00 per bigha.

(3) According to the appellant, the compensation as evaluated by the Land Acquisition Collector is totally inadequate and did not represent true and correct market value of the land The appellant further submitted that in no case the market value of the land in dispute can be evaluated less than Rs. 125.00 per square yard.

(4) In the written statement submitted by the respondent Union of India, great emphasis was laid on the correctness of the market value of the land in question as assessed by the Land Acquisition Collector. It was further submitted on behalf

of the Union of India that all relevant factors were taken into consideration by the Collector in awarding the compensation of the land acquired. It was also stated that the land in question was undeveloped and unripe for the use as building site. The appellant had approached the learned Additional District Judge u/s 18 of the Land Acquisition Act for reference in the matter relating to compensation for adjudication by the Court.

(5) It was argued by the appellant that compensation as awarded was totally inadequate and has not been in consonance with the market value of the land acquired by the respondent. Union of India.

(6) The appellant produced some sale-deeds of Hauz Khas Residential Colony which is contiguous to the village Kalu Sarai before the Additional District Judge. Four sale-deeds which were produced, show that rates ranging from Rs. 20.00 to Rs. 60.00 was received, when lands of similarly situated plots were sold in between 1959 to 1963. The Additional District Judge, after examining the sale-deeds carefully observed that rates of developed plots in residential colony cannot be compared with the undeveloped chunks of land. It was further observed that one Sale-deed which was produced before the Additional District Judge, mentioned rate as worked out to Rs. 60.00 per square yard in the beginning of 1963 looks highly out of tune when compared to the rates of the sale-deeds Ex. A-5, which ranged from Rs. 20.50 to Rs. 35.86 per square yard. The Court observed that the sale-deed Ex. A-6 also does not look reliable in the face of sale-deeds Ex. A-3 to Ex. A-5. The Court further observed that in the sale-deeds. Ex. A-4 dated 29-1-1962 and Ex. A-6 dated 30-4-1964 the increase in price during the period for 17 months comes to Rs. 7.00 per square yard, if the increase of 27 months was Rs. 10.00. By addition, the increase of Rs. 0.75 per square yard to the rate of Rs. 25.75 per square yard of the sale-deed Ex. A-4 dated 29-1-1962, we got the rate of Rs. 33.50 per square yard as on 3-8-1963, the date of Notification u/s 4 of the case in hand. The Additional District Judge after taking into consideration all the facts and circumstances came to the conclusion that land in dispute should be assessed at the rate of Rs. 17000.00 per bigha.

(7) The learned Additional District Judge also considered judgment delivered in L.A.C. No 262 of 1966 {Jatinder Mohan v. Union of India} and L.A.C. No 112 of 1964 (Karnal Hari Chand v. Union of India). These judgments relate to the Notification u/s 4 of August 25, 1962. The learned Additional District Judge after examining various judgments and evidence both oral and documentary, came to the conclusion that just, fair and proper compensation of the land in dispute would be Rs. 17,000.00 per bigha. The Court also observed that the appellant shall be entitled to solatium at the rate of 15 per cent on the amount of enhanced compensation as also to the interest at the rate of 6 per cent per annum on the amount "of enhanced compensation and solatium from the date of petitioner's dispossession till the date of payment in Court.

(8) The Appellant was dissatisfied even with the enhanced compensation

awarded by the Additional District Judge and preferred an appeal against his judgment. In the appeal before this court, the appellant had mentioned that the Additional District Judge erroneously held that the land in dispute has the position similar to Khasra No. 285/153 of Ex. A-8, for three reasons : (a) As per plan. Ex. AW/2 and R/4, the appellant's land abutted beautifully on a public Rasta (pathway) unlike the land comprised in Khasra No. 285/133 of Ex. A/8. (b) The appellant's land admittedly touched the fully developed Hauz Khas colony and particularly the houses built on Plot Nos. F-27. and F-28 constructed on the backside of the appellant's land and thus. it could enjoy all the existing benefits and utility services available in that colony, whereas this position did not exist in respect of land referred in Ex. A/8. These advantages existed before the date of the relevant Section 4 Notification regarding the appellant's land. (c) The Section 4 Notification in respect of the appellant's land was late in comparison to the land preferred in Ex. A/8. The benefit of the "Price rise for this one year had, Therefore, to be considered in favor of the appellant's land in making any comparison with the land of Khasra No. 132 of Ex. A/8 also.

(9) According to the appellant, the fair market value of the appellant's land should have been assessed at Rs. 30.00 per square yard.

(10) The learned counsel for the appellant has brought to our notice the decisions of the Court delivered in R.F.As. 41, 43 and 44 of 1967 (Dewan Kesho Das v. Lt. Governor. etc) dated 24th February, 1984 in which this Court has awarded compensation at the rate of Rs. 17,000.00 per bigha in almost similar kinds of land The division bench of this Court has also considered Land Acquisition CaseNo.351of1962(M.L. Puri v Union of India) and Land Acquisition Case No. 611-612 of 1962 (Mahesh Das. Union of India). In these cases, the market value of the land of the same village was evaluated at Rs. 17,000.00 per bigha as on 13-11-1959 and 7-8-1960.

(11) The appellant has placed strong reliance on the Judgment of the division bench of this court delivered on February 28, 1984 in the case of: Dewan Kesho Das through L. Rs. and others v. The Lieutenant Governor, etc. The Court awarded compensation at the rate of Rs. 17.000.00 per bigha in the said case for similar kind of land of the same village. The division bench in the said judgment had also observed : "The mere fact that the appellant had purchased the land at the price of Rs. 8,500.00 per bigha or thereabout at a public auction is not a factor which would disqualify them from claiming just compensation of their land." We are in respectful disagreement with these observations of the division bench. According to our view, the Public auction is indicative of the prevalent market value of the land at the relevant time Webster's Third New International Dictionary unabridged edition 1967 (Vol. I) defines, "auction" as a public sale of property to the highest bidder. Shorter Oxford English Dictionary 3rd Edition (1967) defines "auction" as a public sale in which each bidder offers more than the last previous bid, the article put up being sold to the highest bidder. The expression "auction" has also been defined by Jowitt's Dictionary of English Law,

Second Edition (1977) Vol. I as Auction signifies generally an increasing, an enhancement and hence is applied to a public sale of property usually conducted by biddings, which augment the price. The public auction has been considered as the most important method of evaluating the market value and prices received in public auction must be given due sanctity. However, when a large number of claimants similarly placed have been awarded compensation at the rate of Rs. 17,000.00 per bigha a village Kalu Sarai (whose land was acquired in pursuance of the notification dated November 13, 1959) Therefore, it would not be proper to adopt different yardstick or parameter of awarding compensation to the appellant. It may be relevant to mention that the appellant's land was acquired in pursuance of the Notification dated August 3, 1963, whereas in the said cases land was acquired in pursuance of notification dated November 13, 1959. There is difference of almost four years. It is a matter of common knowledge that there has been a trend of rising price in land. Therefore, it would be just and fair that the appellant be awarded higher compensation in comparison to the aforesaid cases.

(12) Normally, the highest price is fetched in public auction unless auction is conducted fraudulently.

(13) We have heard the Counsel for the appellant and respondent at length. We have also perused the relevant documentary evidence and various judgments. After taking into consideration various factors, particularly the fact that the appellant's land has been sought to be acquired almost 4 years, Therefore, we deem it just and proper that the appellant be awarded compensation at the rate of Rs. 22,000.00 per bigha for the land in dispute.

(14) We fix the value of the land of the appellant at Rs. 22,000/ per bigha and award compensation at that rate. Whatever has already been paid to the appellant would be deducted In addition to compensation the appellant will also be entitled to solarium at the rate of 15 percent. The appellant is also entitled to interest at the rate of 6 per cent per annum on the enhanced amount from the date of dispossession till payment. The appellant will be entitled to proportionate costs.