

(1991) 01 DEL CK 0035

In the Delhi High Court

Case No : Regular First Appeal No. 94 of 1970

Harbans Lal and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 25-01-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1991) 44 DLT 697

Hon'ble Judges : Usha Mehra, J; S.B. Wad, J

Bench : Division Bench

Advocate : S.S. Shukla and B.S. Mathur, for the Appellant;

Judgement

Usha Mehra, J.

(1) APPELLANT'S land measuring 15 bighas and 7 bids was situated in the revenue estate of Mandoli Fazalpur was acquired vide notification dated 3rd March, 1964 issued by the Delhi Administration u/s 4 of the Land Acquisition Act (hereinafter called the Act). The Land Acquisition Collector gave his Award No. 1896 dt. 30th November, 1965 whereby he awarded compensation @ Rs. 750.00 per bigha. Being not satisfied with the award reference u/s 18 of the Act made by the appellants. The learned Addl. District Judge answered the reference by enhancing the compensation to Rs. 850/" per bigha.

(2) Aggrieved by the judgment of the learned Addl. District Judge dated 14th October, 1969 present appeal has been preferred. The short point for consideration is, what amount of compensation the appellants are entitled to ?

(3) We have perused the judgment of the learned Addl. District Judge- and the evidence placed on record. The learned Addl. District Judge placed reliance mostly on the judgment Ex. R. 7 which dealt with sale deed dated 11th October, 1960 regarding the land situated in Khichripur and basing that to be the market value of 1960 assessed the increase at 5% per annum, fixed the market value at Rs. 850.00 . To our mind. the judgment of the learned Addl. District Judge

suffered from this error because he has taken the market value of the village Khichripur which had no nexus or relation with the land falling in village Mandoli Fazalpur nor has the Addl. District Judge discussed the contiguity of the two villages. Moreover, he has also ignored Ex. A.1, copy of the judgment relating to the Award No. 983 pertaining to the same village Mandoli Fazalpur where the land rates were fixed at much higher rates. Similarly, in Ex. A. 7, judgment of Id. Addl. District Judge in Award No. 1881 pertaining to land falling in village Mandoli Fazalpur, the rates were fixed at much higher market value. Same is the case of Ex. A.5. The Id. Addl. District Judge has not discussed nor given any reason for ignoring the instances given in judgment Ex. A.1, Ex. A. 5, Ex. A. 7 and the sale deed in Ex. A. 2. The reliance which he had placed on Ex. R. 6 and Ex. R. 7 pertains to the judgment of the land falling in village Khichripur. In our view the reasoning given by the learned Addl. District Judge for rejecting the instances in Ex. A. 1 and Ex. A. 7 appears to be not just because if the land in Ex. A.1 and Ex. A. 7 was better situated than the land in question, i.e. the Id. Addl. District Judge could not have reduced the market value of the land from Rs. 3,000.00 to Rs. 850.00 per bigha. He has not discussed the situation of the land in question nor has compared this land by giving any cogent reason with the land covered in Ex. A.1, Ex. A. 6 & Ex. A. 7. Therefore, for the above reasons we find that the land rate fixed by the Id. Addl. District Judge is neither just nor proper. We accordingly set aside the judgment of the learned Additional District Judge as well as the award of the Land Acquisition Collector.

(4) Taking these factors into consideration that for a similarly situated land the market value was already assessed at Rs. 3,000.00 per bigha but the claimant in this case has claimed the market value to be Rs. 1700.00 per bigha. We allow the same and fix the market value of the land in question to be Rs. 1700.00 per bigha. The appellants would be entitled to proportionate increase in the solarium and interest on the unharmed compensation from the date the government took possession till the date of payment. The appeal is accordingly allowed with proportionate costs throughout.