(2012) 12 DEL CK 0009

In the Delhi High Court

Case No : Regular First Appeal 516 of 2000 and CM No. 14218 of 2012

Harpal Singh and Another — APPELLANT

Vs

Union of India and Another — RESPONDENT

Date of Decision : 21-12-2012

Acts Referred:
Land Acquisition Act, 1894 — Section 4

Citation : (2013) 133 DRJ 632

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : B.S. Mathur, for the Appellant; Sanjay Kumar Pathak and Mr. K. Kiran Pathak, for the Respondent

Final Decision : Dismissed

Judgement

Sunil Gaur, J.—Impugned judgment of 14th August, 2000 determines the compensation payable @ Rs. 1,39,500/-per bigha in respect of land situated in the Revenue Estate of Village Bijwasan, New Delhi acquired vide Notification of 31st December, 1993 u/s 4 of the Land Acquisition Act, 1894. In the amended appeal, enhanced compensation @ Rs. 6 lakhs per bigha is sought by ascertaining that rapid development in the entire area of this village is taking place and apart from the acquired land being fertile and ideally situated, it is in the vicinity of developed residential colonies like Dwarkapuri, Palam Vihar, DLF Colony and very close to the main road leading to Najafgarh, Nangal Dewat, Samhalka and just opposite Indian Oil Corporation, having other amenities like DTC Bus Service, Hospitals, Schools, Post Office etc.

2. Learned counsel for appellant had placed reliance upon decisions in Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary Vs. Bipin Kumar and Another, ; Rameshwar Solanki Vs. Union of India, ; Union of India (UOI) Vs. Pramod Gupta (D) by L.Rs. and Others, ; The Land Acquisition Officer, Kammarapally Village, Nizamabad District, Andhra Pradesh Vs. Nookala Rajamallu and Others, ; The General Manager, Oil and Natural Gas Corporation

Ltd. Vs. Rameshbhai Jivanbhai Patel and Another, ; Anjani Molu Dessai Vs. State of Goa and Another, ; Haryana State Industrial Development Corporation vs. Pran Sukh and Ors., (2010) 11 SCC 175; Trishala Jain and Another Vs. State of Uttaranchal and Another, ; Major General Kapil Mehra and Others Vs. Union of India (UOI) and Another, ; Shri Hari Chand Vs. Union of India, ; Municipal Corporation of Delhi Vs. Dalmia Dairy Industries Ltd. and Another, ; National Fertilizers Ltd. Vs. Jagga Singh (Deceased) through L.Rs. and Another, , to contend that the potentiality aspect has been ignored in the impugned judgment and in the light of the afore-referred decisions, while taking into consideration the potentiality aspect of the acquired land in question the reasonable market value of the acquired land would not be less than Rs. 6 lakhs per bigha which ought to be granted to the appellant.

3. Attention of this Court is drawn to the decision in Rameshwar Solanki (supra) to point out that escalation @ 12% per annum is to be granted on progressive basis and not in the manner as has been granted by the Reference Court in the impugned judgment. It is asserted by learned counsel for the appellant that if ratio of the decision in Rameshwar Solanki (supra) is correctly applied, then the enhanced compensation payable is Rs. 1,50,155/- per bigha. However, it is argued by appellant''s counsel that in the decisions cited, the acquisition is of the land in villages situated in Haryana which are about 7 to 10 kilometers towards South West of the village in question and compensation assessed in the decisions relied upon, is much higher than the one granted vide impugned judgment. It is pointed out that the acquired land in question is definitely having better potentiality than the acquired land in District Gurgaon (Haryana). Additional evidence was sought to be led to rely upon Eicher''s Golden Triangle Road Map of Delhi Jaipur and Agra to show the geographical location of the acquired land in question and its potentiality by pointing out the location of other acquired lands in Haryana which are in the vicinity of Delhi, to claim enhanced compensation in the amended appeal.

4. To support the impugned judgment, learned counsel for the first respondent draws attention to the Division Bench decision of this Court in Sh. Dalbir Singh Vs. Union of India (UOI) and Another, ; wherein compensation assessed in respect of acquired land in question is @ Rs. 1,39,500/- per bigha, to assert that when a precedent of the same area is available, then there is no need to look to other precedents and thus this appeal deserves rejection.

5. When confronted with the decision in Dalbir Singh (supra), learned counsel for appellant had vainly tried to rely upon Apex Court decision in Pramod Gupta (supra) to urge that acquisition of similar land in the same/neighbouring villages would not by itself be a ground to invoke the principles of res judicata and/or estoppel.

6. Upon hearing and on perusal of the record of this case and the decisions cited, it becomes evident that it is open to the claimants to raise other contentions relying on or on the basis of other materials brought on record, to the effect that

the land under acquisition is better located then the acquired land in respect whereof decisions have been delivered. It is true that principle of res judicata will not apply to acquisition matters but certainly precedential value of a decision in respect of the same very acquired land, without anything to distinguish it, cannot be discounted by relying upon other precedents which do not relate to the acquired land in question.

7. A Division Bench of this Court in Sh. Risal Singh and Others Vs. Union of India (UOI) and Another, has made it clear that once sale deed of same village is available, it would be unnecessary to look elsewhere for comparable instances.

8. Judicial discipline persuades this Court to follow the Division Bench decision in Dalbir Singh (supra) as it relates to the acquisition in question and because it has not been shown in this appeal on behalf of the appellant that as to how the acquired land of appellant was better located than the acquired land of Dalbir Singh (supra) in this village. It is no longer res integra that when the sale instances of the same village are available then there is no need to look for other sale instances of neighbouring villages. This holds good in respect of precedents as well. It goes without saying that potentiality of the acquired land in this village was considered in Dalbir Singh (supra) as it had dealt with the acquisition in question. Therefore, it is futile to contend on behalf of the appellant that on account of higher potentiality of the acquired land, compensation as claimed be granted. Even the additional evidence sought to be led does not advance the case of appellant any further.

9. Since the impugned judgment grants the same rate of compensation as has been granted in Dalbir Singh (supra), therefore, it is equally futile to contend that progressive appreciation @ 12% per annum ought to have been granted. Undisputedly, the decision in Dalbir Singh (supra) has attained finality and is a binding precedent and this Court finds that there is no option except to follow it. In this view of the matter, insistence of learned counsel for appellant to rely upon Government''s Fixation of Minimum Price of Agricultural Land in the Union Territory of Delhi as on 3rd May, 1990 to highlight that there is paucity of land in Delhi and that there is serious problem of under valuation of land and that land prices in Delhi continue to spiral up, is nothing but an exercise in futility.

10. Even the proposed additional evidence does not provide any distinguishing feature to persuade this Court for not relying upon the decision in Dalbir Singh (supra) to decline enhancement of compensation in this appeal.

11. In view of the afore-going narration, I find that there is no scope of enhancement of compensation in this appeal as the fate of this appeal stands sealed by a decision of Division Bench of this Court in Dalbir Singh (supra). Consequentially, this appeal and the pending application are dismissed with no order as to costs.

