**(2010) 04 DEL CK 0124**

**In the Delhi High Court**

**Case No :** LA. APP. 390 of 2010

Hira Lal — APPELLANT

Vs

Union of India (UOI) and Another — RESPONDENT

**Date of Decision :** 19-04-2010

**Acts Referred:**

Land Acquisition Act, 1894 — Section 4

**Citation :** (2010) 04 DEL CK 0124

**Hon'ble Judges :** Hima Kohli, J

**Bench :** Single Bench

**Advocate :** B.D. Sharma, for the Appellant; Ramesh Ray and Deepak Khadaria, for DDA, for the Respondent

# Judgement

Hima Kohli, J.—The present appeal is directed against a judgment dated 5.12.2006 passed by the Reference Court in respect of the land situated in village Kakrola, covered under Award No. 1/1993-94, made pursuant to the notification issued u/s 4 of the Land Acquisition Act, on 06.06.1991.

2. Counsel for the appellant states that the present appeal is covered by a common judgment delivered by the Division Bench on 23.10.2008, in a batch of matters pertaining to village Kakrola, lead matter being Ved Prakash and Ors. v. Union of India and Ors. registered as LAA No. 673/2008.

3. Counsel for the respondent/Union of India states on instructions from his client that a batch of Special Leave Petitions preferred by the Union of India against the aforesaid judgment dated 23.10.2008, have been dismissed by the Supreme Court vide an order dated 09.11.2009, copy whereof is handed over by him in Court and taken on the record.

4. In view of the above, counsel for the appellant states that the present appeal be also decided on the same lines as decided by the Division Bench in the case of Ved Prakash (supra). The operative paras of the aforesaid judgment are reproduced hereinbelow:

 

30. We are, therefore, of the opinion that the land owners would be entitled to the compensation at rates marginally higher than the rates fixed by the Government vide policy dated 3.5.1990 and it would be safe to add 10% more value than the one fixed by the Government indicating the minimum price.

31. It would be of interest to note that if we apply another yardstick and look into the matter from another angle, we may arrive at the same result. As noted above, the respondents have heavily relied upon sale deeds which are of 2 bighas each. As per these sale deeds, the sale consideration for 2 bighas was Rs. 1,94,000/-. However, Rs. 15,520/- was spent on the stamp duty, etc. as well, which has to be added to the sale price. After adding that amount, the price of 2 bigha would be Rs. 2,09,520/-. On this basis, value of one bigha would be Rs. 1,04,760/-. If we take the sale deeds into consideration, which was of 2 bighas each, the sale deeds produced by the land owners will also have to be taken into consideration. As per the sale deed dated 4.1.1989, for one bigha the sale price was Rs. 1,60,000/-. When we take average of the two sale deeds, one produced by the land owners and the other by the respondents, the amount would work out to little more than Rs. 1,20,000/-. We may clarify that these sale deeds are not made the basis of awarding the compensation as they are discarded on the ground that they relate to small area of land. The only purpose was to point out that the market value fixed by us at Rs. 1,20,500/- would be reasonable.

32. The only question that remains to be considered is as to whether the trial court was right in giving appreciation thereupon @ 12% p.a. for a period of 13 months, inasmuch as, the policy letter is dated 3.5.1990 whereas Section 4 notification is of 6.6.1991. Mr. Poddar argued that in the case of Mehtab Singh (supra), the Supreme Court had indicated that it was not necessary in all the cases to give enhancement @ 12% p.a. However, Mr. Khosla, learned Counsel for the land owners, rightly pointed out that the comments of the Supreme Court in that case were in respect of the land in Haryana. Position in Delhi is totally different. It has been established on record, judicial notice whereof is taken in various judgments, that there is a consistent upward trend in the market rates of lands in Delhi. It is for this reason that in number of judgments, this Court has accepted the formula of increase of rates @ 12% p.a. We may again refer to the earlier orders dated 24.5.2005 passed in these appeals while remanding the case back to the learned ADJ. The aforesaid Government policy was taken note of by the Division Bench and following pertinent observations were made in respect thereof:

7. The aforesaid referred to Government policy has been considered by this Court in Tej Ram and Others Vs. Union of India (UOI) and Another, for fixation of the land value. It may, however, be noticed at this stage that in the present case, the acquisition is about a year later of fixation of the land price, which would require appropriate enhancement.

33. Thus, the court had opined even at that stage that appropriate enhancement will be required. This is precisely the course of action adopted by the learned

 

ADJ. We are, therefore, of the opinion that the land owners would be entitled to appreciation of 13 months @ 12% p.a. and the learned ADJ rightly determined the market value on that basis.

34. On this reckoning, we are of the opinion that the market price of the land in question as on 3.5.1990 should be Rs. 96,875 + Rs. 9,685. In this manner, as on 3.5.1990, the market value would be Rs. 1,06,560/-. We are of the opinion that the learned ADJ rightly held that appreciation of 13 months @ 12% is to be given. By applying this formula, market value of the land as on the date of notification u/s 4 of the Act would be Rs. 1,20,500/- per bigha.

35. In these circumstances, the appeals of the land owners are partly allowed by enhancing the compensation from Rs. 1,09,500/- to Rs. 1,20,500/-. These appeals are allowed in the aforesaid manner with proportionate costs. The appellants shall also be entitled to all other statutory benefits as awarded by the learned ADJ. All the pending applications also stand disposed of. As a consequence, the appeals preferred by the UOI are also dismissed.

5. In the aforesaid circumstances, guided by the above judgment, the present appeal is disposed of by partly allowing the same and enhancing the compensation payable to the appellant from Rs. 1,09,500/- to Rs. 1,20,500/- per Bigha. The appellant shall also be entitled to all other statutory benefits as awarded by the learned ADJ. It is, however, clarified that the appellant shall not be entitled to claim interest on the enhanced compensation for the period of delay of 820 days in preferring the appeal and costs in the appeal, in terms of the orders passed today in CM No. 6963/2010 preferred by the appellant for condonation of delay in filing the appeal.

6. Appeal is disposed of. Decree sheet be prepared accordingly. File be consigned to the record room.

 