(1994) 08 DEL CK 0077

In the Delhi High Court

Case No : Regular First Appeal No. 376 of 1969

Ishwar Dass Sath APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 01-08-1994

Acts Referred:
Land Acquisition Act, 1894 — Section 54

Citation : (1994) 55 DLT 624 : (1994) 108 PLR 69

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

Bench : Division Bench

Advocate : Anjana Gosain, for the Appellant;

Judgement

Devinder Gupta, J.

(1) This is an appeal u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) against the Award dated7.3.1969 passed by Shri G.R. Luthra, Additional District Judge, Delhi in Land Acquisition Case No. 317/67 determining the amount of compensation.

(2) The appellant''s property comprised in land measuring 583.32 square yards, on C.T. Road, Subzi Mandi, Delhi was acquired for public purpose on the basis of notification issued u/s 4 of the Act on 14.3.1957. The Collector, Land Acquisition, determined the amount of compensation on the basis of capitalisation of income and an overall award of Rs. 49,000.00 was made. Feeling dissatisfied, a reference was sought. Through the impugned award the reference Court held that the net rental value of the property had rightly been found by the Collector to be at Rs. 2,448.47 p.a. Instead of 20 years purchase on the capitalised value as was taken by the Collector, the reference Court calculated the amount of compensation at 25years and, thus, held the appellants entitled to a sum of Rs. 61,211.75. In this appeal further enhancement of compensation has been claimed.

(3) Counsel for the appellant has drawn our attention to a judgment of this Court

in Rfa 398/69 titled as Shri Sat Narain Seth v. Union of India (decided on23.2.1992). Another adjacent property bearing Municipal No. 7661 and 7666situated at G.T. Road, Subzi Mandi, Delhi was the subject matter of determination of compensation which was also acquired under the same notification issued u/s 4 of the Act on 14.3.1957. In the said decision the compensation was determined by capitalisation by multiplying the net rental by 200/7astheGiltEdgesecurity rate was found to be 3.5% at the time of notification issued u/s 4 of the Act. Since in this case also the property of the appellant bearing municipal Nos. 7645 to 7650 and 7667 to 7673 was adjacent to the property which was the subject matter in the aforementioned decision in Sat Narain Seth''s case (supra)there is no reason to treat this case differently.

(4) Thus, in this case also the market value is to be arrived at by capitalising the net rental value, namely. Rs. 2,448.47 by 200/7 in view of the fact that the Gilt Edge security rate was 3.5% when notification u/s 4 of the Act was issued. We accordingly allow the appeal and hold the appellant to be entitled to Rs. 69,956.29as the market value of land and direct that the appellant be paid the enhanced compensation of Rs. 8,744.54. The appellant will also be entitled to solarium at 15%and interest at the rate of 6% per annum on the excess amount from the date of possession till payment with proportionate costs.

(5) A decree be drawn up for the enhanced compensation as directed hereinabove with additional interest u/s 4(3) of the Land Acquisition (Amendment and Validation) Act, 1967 provided there is no overlapping in the payment of interest u/s 28 of the Act and Section 4(3) of the Amendment Act.

