

(1991) 03 DEL CK 0012

In the Delhi High Court

Case No : Regular First Appeal No. 500 of 1970 and Civil Miscellaneous Appeal No"s. 483 of 1989, 156 of 1991

Kundan and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-03-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1991) 44 DLT 192

Hon'ble Judges : S.B. Wad, J; Mohd. Shamim, J

Bench : Division Bench

Advocate : R.P. Jain and B.S. Mathur, for the Appellant;

Judgement

S.B. Wad, J.

(1) These are applications for bringing the legal heirs of deceased Kundal Lal, appellant, on record. Notice was issued to the respondents but no reply has been filed. The applications are allowed. The legal heirs be brought on record and the cause title be amended accordingly. The amended memo of parties be filed within one week.

(2) Land measuring 28 bighas and 10 bids was in Village Ambarhal, belonging to the appellants, was acquired by Notification u/s 4 read with Section 17 on 27.5.1967. The Collector made the Award for Rs. 500.00 per bigha. The Adj raised it to Rs. 540.00 per bigha. The appellant's claim is for Rs. 3,000.00 per bigha.

(3) Admittedly the land of the appellants is an agricultural land. The appellants have relied upon the Sale Deed Ex. AW. 1/3, duly proved. This sale instance is for the sale of one bigha of land in the adjoining village for a sum of Rs. 2,500.00 per bigha. The land in question was purchased by a Cooperative Society. The learned Adj has rejected the sale instance holding that it was a sham affair as no stamp duty was paid and the entire consideration passed before the registration

of the Sale Deed. We have gone through the Sale Deed and also the evidence and we find that the learned Adj has erred in rejecting the said sale instance. Since the land was purchased by a Cooperative Society, they were not required to pay any stamp duty. The actual payment of Rs. 2,500.00 is evidenced by the cash book entry that was produced. We have, Therefore, no hesitation in accepting Ex. A.W. 1/3. This sale instance is dated 21.1.1966.

(4) Considering the fact that the Notification in regard to the land of appellants has been issued six year later, we find that the claim of the appellants for Rs. 3,040.00 correctly represents the market value and we order accordingly.

(5) The appellants are entitled to compensation @ Rs. 3,040.00 per bigha. They would also be entitled to interest and solarium at the rates permissible under law at the time of Section 4 Notification on the enhanced amount. The appeal is allowed with costs.