(2001) 09 DEL CK 0117

In the Delhi High Court

Case No : Regular First Appeal No''s. 378 and 397/77, 525, 526 and 528/88, 149, 150, 247, 252 and 253/90, 142, 188 and 189/93, 175, 748 and 749/95, 176, 179 and 180/96 and 98/97

Laxmi Bai @ Lachhmi Bai APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 20-09-2001

Acts Referred:

Land Acquisition (Amendment and Validation) Act, 1967 — Section 4(3)
Land Acquisition Act, 1894 — Section 4, 54, 6

Citation : (2001) 94 DLT 881

Hon'ble Judges : Sanjay Kishan Kaul, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Om Prakash, L.C. Chechi, H.S. Phoolka, Y.D. Nagar and S.K. Verma, for the Appellant; S.S. Dalal, Geeta Luthra and Sanjay Poddar, for the Respondent

Final Decision : Allowed

Judgement

Devinder Gupta, J.—The appeals preferred by claimants u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) are for further enhancement in the amount of compensation. Union of India has filed the appeals for reduction in the amount of compensation. In the appeals filed by the Union of India, cross-objection have also been filed by the claimants seeking further enhancement. The claimants pray that they be allowed compensation @ Rs. 10,000/- per bigha whereas Union of India has prayed that the compensation awarded by the Reference Court be reduced and be directed to be paid @ Rs. 18,000/- per bigha.

2. The land which is subject matter of the appeals was situated at village Tehkhand and was notified for being acquired for public purpose namely, Planned Development of Delhi u/s 4 of the Act through Notification issued on 23.1.1965 for public purpose namely, Planned Development of Delhi. It was followed by declaration u/s 6 dated 13.1.1969. The Collector, Land Acquisition made three

separate awards. In the first Award No. 13/73-74 dated 12.6.1973 land was classified in blocks A and B. Compensation was offered @ Rs. 2,500/- per bigha and Rs. 2,000/- per bigha respectively. Reference Court enhanced compensation and held the market value @ Rs. 4,200/- and Rs. 3,400/- per bigha are RFAs 378/77 and 397/77.

3. Two other awards made by the Collector, Land Acquisition are Award Nos. 90/83-84 and 232/86-87 dated 4.2.1984 and 19.9.1986 respectively under which compensation was offered @ 4,800/- per bigha. Claimants felt dissatisfied and sought references. The Reference Court by separate awards answered the references. First of such reference answered by the Reference Court has given rise to appeal (RFA 526/88). Reference Court held the fair market value at Rs. 24,000/- per bigha. All other appeals are against similar awards of the Reference Court.

4. On 23.1.1965 a common notification was issued u/s 4 of the Act notifying portions of land situate in Tehkhand and Tughlakabad for being acquired for the same public purpose. Both are adjoining villages. The Collector made separate awards for the two villages. Under the first Award No. 13/73-74 of village Tehkhand, the Collector awarded compensation @ Rs. 2,500/- per bigha and Rs. 2,000/- per bigha. He, however, offered compensation @ Rs. 4,000/- per bigha for the lands situated in village Tughlakabad and in the later two awards for the land situate at Tehkhand he offered compensation @ 4,800/- per bigha. Higher market value was assessed for the land situate at village Tehkhand and compared to the market value for Tughlakabad after the Collector came to the conclusion that the land of village Tehkhand was far superior to that of Tughlakabad from all points of view including its potential. Needless to add that the colony of Kalkaji had been carved out of the land of village Tughlakabad and Tehkhand much prior to the issuance of notifications u/s 4 of the Act. Keeping in consideration the potential of the land and its location the Reference Court also answered the references. In the awards relatable for the land of Tughlakabad the market value was determined at Rs. 23,000/- per bigha by the same Reference Court, which has answered reference, which has given rise to appeal (RFA 526/88). For the land situate at village Tehkhand considering its superiority the Reference Court assessed market value at Rs. 24,000/- per bigha.

5. Against the awards of the Reference Court relatable to village Tughlakabad appeals were preferred by the claimants to this Court seeking further enhancement in the amount of compensation. Union of India had also filed appeals seeking reduction in the amount of compensation. Stand of Union of India in those appeals was that the fair market value, which ought to have been allowed should not be more than Rs. 18,000/- per bigha for which a reference be made to the memorandum of appeal in RFA 184/88, Union of India v. Inder. Thirty two appeals of the claimants and Union of India were heard and decided together by a Division Bench of this Court. On 20th July, 1992 in the common judgment reported as Chandan and Others Vs. Union of India, fair market value

was determined by this Court for the land situate in Tughlakabad acquired through notification dated 23rd January, 1965 at Rs. 40,000/- per bigha. We are informed that the judgment of this Court has since become final and no further appeal has been carried by Union of India. The market rate of Rs. 40,000/- per bigha payable for the lands situate in village Tughlakabad acquired through notification dated 23rd January, 1965 has thus been accepted by Union of India since compensation has also been paid to the claimants at that rate.

6. By the fact that the market rate for village Tughlakabad has already been determined by this Court there is no difficulty for us in determining fair market value for the lands situate in village Tehkhand, which were also acquired under the same notification for the same public purpose. It has already been noticed by us that the Collector, Land Acquisition in his award as also the Reference Court in the impugned awards have recorded findings of fact that the lands of village Tehkhand were far superior to the lands of village Tughlakabad, which were acquired through the same notification, Therefore, the claimants, if they are not entitled to any higher amount of compensation are at least entitled to compensation at the same market rate at which compensation was determined in Chandan''s case (supra). Needless to add that Union of India in the appeals filed by it for village Tehkhand also claimed that the fair market value which ought to have been allowed should be Rs. 18,000/- per bigha, which was also the case of Union of India in Chandan''s case (supra). Therefore, if not the higher market value at least the market value as was determined in Chandan''s case (supra) deserves to be fixed also in respect of the land situate in village Tehkhand which market value has been accepted by Union of India for Tughlakabad land. We thus hold Rs. 40,000/- to be the fair market value of the lands of village Tehkhand, acquired through Notification dated 23.1.1965. The claimants have also restricted their claim to this amount.

7. Consequently the appeals and the cross-objections filed by the claimants are allowed holding the claimants entitled to compensation @ Rs. 40,000/- per bigha. Over and above the enhanced market value solarium @ 30% on the enhanced market value will be paid to all the claimants except to the claimants in RFAs 397/77 and 378/77 in which solarium @ 15% on the enhanced amount of market value will be paid. Interest in all case (except RFAs 397/77 and 378/77) will be paid @ 9% per annum for a period of one year from the date of Collector taking possession and thereafter @ 15% per annum till date of payment. Interest on the enhanced market value to the claimants in RFAs 397/77 and 378/77 will be paid @ 6% per annum from the date of Collector taking possession to the date of payment. The claimants, (except in RFAs 397/77 and 378/77) will also be paid additional amount @ 12% from the date of publication of notification u/s 4 of the Act to the date of the award of the Collector or the date of Collector taking possession, whichever is earlier.

8. Claimants in all appeals will also be paid interest @6% p.a. u/s 4(3) of Land Acquisition (Amendment and Validation) Act, 1967 on the amount determined by

us for the period from the date of expiry of 3 years of the date of notification u/s 4 of the Act to the date of tender of compensation awarded by the Collector, Claimants in all cases will also be paid interest on solarium in view of the judgment of Supreme Court in Civil Appeal No. 6271/98, Sunder v. Union of India decided on 19th January, 2001.

9. Appeals and Cross-objections allowed.

