
(2011) 09 AHC CK 0434
In the Allahabad High Court
Case No : First Appeal No. 467 of 1987

Malkhan Singh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 15-09-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23(1A), 23(2), 4

Citation : (2011) 09 AHC CK 0434

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Pankaj Mithal, J.—Heard Sri Surendra Tewari, learned Counsel for the Appellant and learned Standing Counsel appearing for the Respondents.

2. This is a land acquisition appeal for enhancement of compensation by the claimants arising from judgment and order dated 15.2.1986 passed by District Judge, Ghaziabad in Land Acquisition Reference No. 294 of 1982. The court below by the said judgment had decided about 60 land acquisition references. Some of the appeals arising from the said judgment and order of the District Judge have already been allowed.

3. The land was acquired for the purposes of constructions of car shed of electric multiple unit of the Indian Railways. The notification u/s 4 of the Land Acquisition Act was issued on 7.3.1981. The Special Land Acquisition Officer offered compensation @ Rs. 8/- per square yard. The claimants were not satisfied by the market value so offered and, therefore, about 60 references u/s 18 were preferred before the District Judge. The District Judge decided the aforesaid reference by a common judgment and awarded compensation @ Rs. 12 per sq. yard. The claimants not being satisfied even by the award if market value @ Rs. 12/- sq. yard have preferred this appeal.

4. It has been submitted that in connection with the same acquisition and the

award, First Appeal No. 832 of 1988 has already been decided by this Court on 14.2.1987 wherein the market value @ Rs. 15/- per sq. yard has been awarded. Thereafter the aforesaid judgment and order has been followed in some other first appeals, in which First Appeal No. 466 of 1987 (Ran Pal v. State of U.P.) was the main appeal, which were decided vide judgment and order dated 28.2.2003. The said judgment and order of this Court appears to have become final as there is nothing on record to show that any appeal against the same is pending or that it has been set aside. In fact, parties accept that the matter is covered by the aforesaid judgment and order. Accordingly, this appeal is allowed partly and disposed of on the same terms and conditions of the First Appeal No. 832 of 1988 decided on 14.2.1977 and the decree passed by the reference court below stands modified.

5. In view of the aforesaid, it is provided that the judgment, order and decree of the reference court which is impugned in this appeal is modified as under:

1. The claimants are entitled to the market value of Rs. 15/- per sq. yard for the acquired land;
2. The claimants are also entitled to the benefit of additional compensation as is permissible u/s 23(1A) of the Act;
3. The claimants are entitled to the benefit of solatium u/s 23(2) of the Act @ 30% on the market value i.e. Rs. 15/- per sq. yard and;
4. The claimants are also entitled to get interest @ 9% per annum for the first year from possession and thereafter @ 15% per annum till the date of deposit/ payment of compensation.

6. In the result, the appeal succeeds partly and is allowed as above.