

(1999) 03 DEL CK 0039

In the Delhi High Court

Case No : C.M. 488/97 and R.F.A. No. 68 of 1983

Mangtoo @ Mangoo

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-03-1999

Acts Referred:

Land Acquisition (Amendment and Validation) Act, 1967 — Section 4(3), 6
Land Acquisition Act, 1994 — Section 4, 4(3)

Citation : (1999) 78 DLT 723 : (1999) 50 DRJ 576

Hon'ble Judges : Usha Mehra, J;S.N. Kapoor, J

Bench : Division Bench

Advocate : M.L. Lonial, for the Appellant; Pinki Anand, for the Respondent

Final Decision : Allowed

Judgement

Usha Mehra, J.—The learned Land Acquisition Collector, Mr. Ravi Dadhich, SDM, Preet Vihar has produced on record a letter dated 31st July, 1997 addressed to this Court under Special Reference No. 10 of the Land Acquisition Act, 1894 (in short the Act). Along with that letter a statement showing the particulars of the parties and the Khasra Numbers, total areas thereof and the share of the appellants have also been mentioned. Copy of the same had been given to Mr. M.L. Lonial, who accepts the position indicated in this statement regarding Khasra numbers and the shares of the appellants mentioned in the same.

2. We have gone through the paper book which shows that before the learned Additional District Judge could deliver his order on the reference made u/s 18 of the Act, the learned Land Acquisition Collector sent an additional revised statement u/s 19 in LAC No. 144/76. The same was forwarded to the learned Addl. District Judge, wherein detail of the Khasra numbers, shares and the kind of soil were mentioned. However, while delivering the impugned order, it appears the learned Addl. District Judge did not take into count the additional revised statement. Hence the correct entitlement of the shares of the appellant has not been properly indicated in the impugned order to the effect that one of the

Khasra number 699/520 has been completely omitted in the impugned order. Even the shares of the appellant have not been correctly indicated. Therefore the appellant expressed this as one of the grievance in this appeal.

3. In view of the undisputed position which has now emerged after the correct statement has been filed by the S.D.M., Preet Vihar, we consider that subject matter of the appeal now relates to Khasra numbers and shares therein as mentioned in the said statement. Accordingly the appellant would be entitled to compensation in respect of full shares of Khasra Nos. 700/520 (2-01), 720/478 (3-19), 721/478(1-16), 479 (10-16), 709/214 (4-01), 490 (3-18), 718/478 (1-09), 521 (2-14), 701/520 (1-04), 500 (1-16), 716/478/2 (0-14), 489/2 (3-10). Appellant will also be entitled to full share with regard to Khasra No. 467 (1-19). He would further be entitled to full share regarding Khasra Nos. 712/405 (4-8), 711/405 (6-3), 713/405 (2-04), 715/405 (0-04), 714/405 (1-03). However, he will not be entitled to any share of Khasra Nos. 406(14-14), 407(5-14), 717/478(0-18), 699/520(3-18), 589/221 min.(0-15), 695/220 (1-07).

With these observations the application stands disposed.

4. This appeal is a sequel to the land acquisition proceedings in respect of the acquisition of the land comprised out of the revenue estate of Village Khichripur. The land was acquired vide Notification u/s 4 issued on 13th November, 1959 and the declaration u/s 6 was issued on 20th June, 1966. Vide Award No. 28-B of 1970-71 (Suppl.) the Land Acquisition Collector assessed the market value of the land at Rs. 600/- per Bigha. Learned Additional District Judge, enhanced the compensation by assessing the value of the land in question at Rs. 2,100/- per Bigha. The learned Addl. District Judge, while assessing the market value of the land placed reliance on an earlier judgment of another Addl. District Judge relating to same type of land in this very village wherein the compensation was fixed by the Addl. District Judge at Rs. 2,100/- per Bigha. From the perusal of the impugned order of the Addl. District Judge, it is not clear whether the earlier judgment relied by him in LAC No. 267/70 was of the same Notification of November, 1959. This Court, however, in the case of Ram Lal and Anr. v. Union of India in R.F.A. No. 230/83 decided on 17th May, 1996 pertaining to the same village i.e. revenue estate of Village Khichripur was dealing with this very Notification dated 13th November, 1959 and this very Award No. 28-B of 1970-71. The Court in Ram Lal's case determined the market value of the land in Village Khichripur at Rs. 8,000/- per Bigha. In that case also the land was acquired by a Notification dated 13th November, 1959 vide the same award bearing No. 28-B of 1970-71. In that case also the Land Acquisition Collector fixed the market value of the land at Rs. 600/- per Bigha and the learned Addl. District Judge enhanced it to Rs. 2,100/- per Bigha. However, this Court in appeal enhanced the compensation to Rs. 8,000/- per Bigha on the basis of the judgment of Supreme Court in Civil Appeal No. 6667-85 of 1983 wherein the Supreme Court disposed of SLP (C) No. 10188/85, 9027/85 and C.A.No. 3538/90. The Apex Court was dealing with the land situated in revenue estate of

Village Gazipur. While determining the compensation the High Court in Rani Lal's case (supra) took note of the fact that land in Village Gazipur as well as Khichripur was acquired by Notification of the same date u/s 4 of the Act dated 13th November, 1959. After considering that the lands in these villages are adjacent to each other, the Court awarded compensation at the rate of Rs. 8000/- per Bigha. Relying on the observation of Supreme Court, this Court in Ram Lal's case observed that land in Village Gazipur was notified for acquisition on 13th November, 1959. Similarly in the case of Village Khichripur land was acquired after issuing Notification u/s 4 of the Act dated 13th November, 1959. Both the villages i.e. Village Gazipur and Khichripur are contiguous to each other and both villages are lying in the eastern part of the Delhi across river Yamuna. Therefore, this Court came to the conclusion that the price of the land in both the villages which were acquired by notification of the same date should not be different. It should bear the same market value particularly when vide notification u/s 4 of the Land Acquisition Act, dated 13th November, 1959 large scale of land were acquired for planned development of Delhi.

5. In Ram Lal's case (supra) it has also been observed that it is a well settled principle of law that when the lands of both the villages are stated to be contiguous to each other and were required for planned development of Delhi vide Notification dated 13th November, 1959, there is no reason why should the appellant be paid compensation of different rates for his land which was acquired vide Notification dated 13th November, 1959. As observed by this Court in Ram Lal's case RFA No. 230/83 when two revenue estate of village are contiguous to each other, there is no reason that the land in one village should not have the same market value as the market value of land in the other village. Since similarly situated appellants have been awarded compensation at the rate of Rs. 8,000 /- per Bigha we see no reason why this appellant be treated differently.

6. Accordingly we fix the market value of land of the appellant in Village Khichripur at Rs. 8,000/- per Bigha on the date of Section 4 Notification i.e. 13th November, 1959. In addition to the market value the appellants shall also be entitled to solarium at the rate of 30% on the market value fixed.

7. Appellant will also be entitled to interest at the rate of 9% per annum for the first year commencing from the date when possession was taken and thereafter at the rate of 15% p.a. on the enhanced compensation, till the date of payment.

8. The appellants shall also be entitled to interest at the rate of 6% p.a. u/s 4(3) of the Land Acquisition (Amendment & Validation) Act, 1967 on the said market value of land from the date of expiry of three years of the Notification u/s 4 of the Land Acquisition Act (13.11.1959) as the declaration u/s 6 of the Act (30.6.66) was issued more than three years after the issuing of notification u/s 4.

9. Appellant will also be entitled to cost.