

(1992) 07 DEL CK 0010

In the Delhi High Court

Case No : Regular First Appeal No. 363 of 1978

Maya Devi and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-07-1992

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (1992) 48 DLT 445 : (1992) 23 DRJ 559

Hon'ble Judges : P.K. Bahri, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : Mukul Rohatagi, R.P. Jain and Sashi Kiran, for the Appellant;

Judgement

B.N. Kirpal, J.

(1) This judgment will dispose of R.F.A. Nos. 358/78, 359/78, 361/78, 363/78, 364/78, 374/78, 391/78, 400/78, 128/79, 155/79, 263/79, 361.79, 370/79, 486/79 and 223/80.

(2) Land of the appellants which was situated in the Village Rangpuri Malikpur Kohi was acquired under the provisions of the Land Acquisition Act (for short, the "Act") and in the present appeals the claim of the appellants is that the amount of compensation which has been awarded should be enhanced.

(3) A notification u/s 4 of the Act was issued on 3rd December, 1971 seeking to acquire the land in this village for planned development (development of Palam Airport). By the said Notification, apart from the Village in question there was land in a number of other villages also which was sought to be acquired and those villages were Nangal Dewat and Shahbad Mohammedpur. The land Acquisition Collector divided the land into two different blocks viz.. Block A and Block B. In respect of Block A, the market value of the land was assessed at Rs. 3300.00 per Bigha while in respect of Block B, the market value was Rs. 2200.00 per bigha.

(4) On reference being made u/s 18 of the Act. the Addl. District Judge enhanced the compensation to Rs. 4800.00 per Bigha in respect of Block A and Rs. 3200.00 in respect of Block B. It is this decision of the Adj which is sought to be Challenged in this appeal Before reverting to the contentions of the learned counsel for the parties, it will be necessary to examine an earlier case of acquisition of land in the same village. On the 23rd, January. 1965 Notification had been issued u/s 4 of the Act, inter alia seeking to acquire land in the same village for the planned development of Delhi. In respect of four different parcels of land in the same Village, four different Addl. District Judges awarded different compensations. While Shri Jagdish Chandra (as then Lordship was) awarded Rs. 7,000.00 and Rs. 5,000.00 per Bigha, for Blocks A and B respectively, Shri O.N. Vohra, Addl. District Judge awarded Rs. 800.00 , Rs. 600.00 and Rs. 400.00 per Bigha for Blocks A, B and C respectively. Shri H.K.S. Malik valued the land at Rs. 3600.00 per Bigha in respect of Block A and Rs. 2700.00 per Bigha in respect of Block B. Shri T.S. Oberoi. Addl. District judge valued the land of Block A at Rs. 7,000.00 per Bigha. Against the said orders appeals were filed to this Court which were disposed of by a Division Bench in the case of Baljit Singh and Others Vs. Union of India and Another, .

(5) On behalf of Use claimants. reliance was sought to be placed on a Division bench judgment of this Court in the case of Hoshier Singh. Rfa 122/78 which pertained to Village Mahipal Pur, In that case the Division Bench had decided that the compensation should be awarded (a) Rs. 14340.00 per Bigha. In arriving at this decision, the Bench placed reliance on a sale deed of a parcel of land in Village Masud Pur. which village adjoined Village Mahipal Pur. In Baljit Singh's case (supra), this Court came to the conclusion that there was factual difference in the situation and potentiality of the lands in Villages Malikpur Kohi vis-a-vis Village Masud Pur and, Therefore, reliance could not be placed on the decision in Hoshier Singh's case, which was based on the sale deed of a land in Village Masud Pur. We are referring So this for two reasons, firstly ,as the Division Bench of this Court has held that compensation awarded in respect of Village Mahipalpur and Masud Pur cannot be taken as an instance of market price of land in Village Malikpur Kohi and secondly the market value of the land of this Village was determined by the "Division Bench as on 23rd January, 1965 at Rs. 3,000.00 per Bigha. The question is as to what extent, if any, is this compensation to be enhanced.

(6) Learned counsel for the appellants have drawn our attention to a decision of the Supreme Court in Gokal Vs. State of Haryana, . This was a case pertaining to Village Dunda Hera in the State of Haryana. This village was adjoining Delhi-Gurgaon road and Notifications u/s 4 had been issued on 20th March, 1975, 26th May, 1976, 3rd September. 1976 and 6th January ,1978. The Supreme Court had assessed the rate of land per Sq. Yard in respect of these four Notifications at Rs. 20.00 , Rs. 25.00 . Rs. 26.00 and Rs. 30.00 respectively. The contention of the learned counsel for the appellants is that the increase in compensation per year comes to over Rs. 5,000.00 per Bigha. It is further contended that whereas the

Supreme Court was concerned with the land which was situated on the Delhi-Gurgaon Road which was much farther away from Delhi, in the present case the land in question is adjoining the National Highway No. 8 which leads to Gurgaon. So the situation of the land is better than the land with which the Supreme Court was concerned. The submission of the learned counsel, Therefore, is that even if the decision of this Court in Baljit Singh's case is taken as the base and the market value of the land is taken to be Rs. 3,000.00 per Bigha as on 23rd January, 1965, but as on 3rd December, 1971 there was a lot of escalation, Therefore, the price of land should be increased by about Rs. 5,000.00 per Bigha for each year. By process of simple arithmetic the learned counsel submits that the increase should be by Rs. 30,000.00 and the market value of the land should not be less than Rs. 33,000.00 per Bigha.

(7) It is no doubt true that the Supreme Court has in Gokal's case (supra) allowed enhancement in the manner indicated above. However, the reason or the base for this increase is not indicated. On the other hand we find a decision of a Division Bench of this Court in Rfa 289/80, entitled Richpal and another Vs. Uoi, decided on 8th April, 1987. It was observed by this Court in this case that knowing that prices of land in Delhi have been continuously rising since 1947, there should be an increase of Rs. 1,000.00 per Bigha per year. We, however, find that this observation was made in respect of Village Aali which was at a distance from the land with which we are concerned. Furthermore, the rate of escalation has increased in the later years. Although in Richpal's case the Court was concerned with the Notification issued u/s 4 on 12th June, 1969, nevertheless it is evident that there has to be an increase in the compensation and by taking Rs. 3,000.00 per Bigha as the base, the question is as to what should be the amount to which the compensation should be increased.

(8) As has already been observed, the Notification u/s 4 of the Act which was issued, related to the land in the Village in question as well as the land in two other Villages, including Nangal Dewat. In respect of Nangal Dewat, with reference to the Notification dated 3rd December, 1971, a Division Bench of this Court in the case of Jai Lal Vs. UOI, Rfa 203/82, decided on 27th April, 1988 came to the conclusion that there could be no distinction amongst Blocks A, B and C and that the uniform compensation which was payable was @ Rs. 13,000.00 per Bigha. This judgment relied upon a decision of the Supreme Court in Civil Appeal No. 830/81. The decision in Jai Lal's case was preceded by a decision of a Single Bench of this Court dated 23rd February, 1979 in the case of Union of India Vs. Ram Kishan & Ors., Rfa 46/77. There, in relation to Village Nangal Dewat, the Court in respect of Block A land had valued the price at Rs. 13,000.00 per Bigha. Jai Lal's case was followed by another Division Bench of this Court in Rfa 212/79 in the case of Vijay Kumar Kapoor & Ors. V. Uoi, decided on 1st September, 1989. In that case, the compensation awarded was @ Rs. 13,000.00 per Bigha.

(9) The plan of Delhi which has been placed before us shows that Village Rangpuri is adjoining National Highway No.8. This Village is on the South-East of

the Highway while Nangal Deva is on the North-West of the Highway. Lands of both the Villages were acquired for development of the Palam Airport. The lands appear to be similarly situated in both the Villages. When the lands of the two Villages are similarly situated there is no reason as to why there should be any difference in the rate of compensation awarded. Therefore, relying upon the aforesaid decision of this Court pertaining to Nangal Dewat we would value the land of Village Rangpuri Malik Pur Kohi @ Rs. 13,000.00 per Bigha.

(10) Before concluding we would like to mention a decision of this Court dated 10th July, 1984 in Rfa 149/79 which related to Village Shahbad Mohammedpur. There the value fixed was Rs. 12,000.00 per Bigha. The perusal of the map, however, shown that the Village Shahbad Mohammedpur is further away from National Highway No. 8 and is behind Village Nangal Dewat. The said Village Shahbad Mohammedpur is not similarly situated to that of Rangpuri. The Village Nangal Dewat is definitely better situated than Shahbad Mohammedpur and that is why there is a difference of compensation awarded @ Rs. 1,000.00 per Bigha between the two villages. As we have already observed. Village Rang Pun, with which we are concerned in this case is similarly situated to that of Nangal Dewat, Therefore, the compensation awarded in respect of village Nangal Dewat is the appropriate instance.

(11) For the aforesaid reasons the appeal is partly allowed. The land in Village Rangpuri @ Malikpur Kohi as on 3rd December, 1971 is valued at Rs. 13,000.00 per Bigha. The appellants will be entitled to solarium @ 15% per annum inasmuch as the award of the District Judge is prior to 30th April, 1982. The appellants will also be entitled to interest @ 6% per annum from the date of taking possession of the land till the date of payment of the compensation. The appellants will also be entitled to costs.

(12) We are informed by the learned counsel for the appellants that in some of the appeals there is a short fall of Court Fee. The decree granting enhancement @ Rs. 13000.00 per Bigha, in respect of the same will not be prepared till the Court Fee is made good. The short fall in the Court Fee should be made up within six weeks from today.