
(2004) 04 DEL CK 0039

In the Delhi High Court

Case No : Regular First Appeal 372 of 1989

Mir Singh and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Citation : (2004) 111 DLT 108 : (2004) 74 DRJ 173

Hon'ble Judges : Ramesh Chand Jain, J; Dalveer Bhandari, J

Bench : Division Bench

Advocate : Geeta Mehrotra, for the Appellant; S.S. Dalal, for the Respondent

Judgement

Dalveer Bhandari, J.

1.The Land Acquisition Collector had awarded compensation at the rate of Rs.1,800/- per bigha for the land in Class `A" and Rs.900/- per bigha for the land in Class `B" of village `Amberhai". The appellants in these appeals are admittedly in Class `A" land. The learned Additional District Judge vide his judgment dated 10th March, 1989 enhanced the compensation for the acquired land of village `Amberhai" @ Rs.3,320/- per bigha.

2.The appellants aggrieved by the impugned judgment have preferred these appeals before this Court for further enhancement of compensation. Learned counsel for the appellants and counsel for the UOI submit that there is no adjudication for the land of village `Amberhai" by this Court. In this view of the matter, we have to get guidance from the cases which have been determined by this Court in respect of the lands of adjoining villages.

3.The learned counsel appearing for the appellants has placed reliance on a decision of this Court in the case of Ishwar Singh & Ors. vs. Union of India, in RFA No.43, 44, 45 & 120/1987 decided on 2nd April, 2002. The Division Bench in the said judgment has observed that the villages Kakrola, Baprola, Goela-Khurd, Palam and Amberhai are located adjacent to each other. In the award, it is mentioned that the land of village Goela-Khurd is similar and has been acquired

under the same scheme, e.g., for widening of Nazafgarh drain. It may be pertinent to mention that the land of village Goela-Khurd was acquired vide notification dated 30th May 1979 and by the same notification, the land of the appellants were acquired. A Division Bench of this Court in a detailed judgment after considering the relevant case law has arrived at the conclusion that the claimants are entitled to compensation @ Rs.11,500/- per bigha along with other benefits. It may be pertinent to mention that in the case of Ishwar Singh (supra) of village Goela-Khurd, the Reference Court enhanced the compensation @ Rs.5,000/- per bigha whereas in these appeals, the learned Additional District Judge granted compensation @ Rs.3,320/- per bigha. On consideration of all the necessary and relevant factors, a Division Bench of this Court enhanced compensation from Rs.5,000/- to Rs.11,500/- per bigha for the acquired land of village Goela-Khurd.

4.Learned counsel for the parties submit that this case is squarely covered by the Division Bench judgment of this court passed on 26.2.2004 in R.F.A.No.304/1985 titled Kesho Ram (Deceased) Thru LR. vs. Union of India. The only distinction is that in that case since the claimants itself have restricted their claim to Rs.10,000, Therefore, the court granted compensation @ Rs.10,000/- per bigha. In this case, admittedly, the appellants have not restricted their claim to Rs.10,000/-. Therefore, the appellants would be entitled to compensation @ Rs.11,500/-. The appellants would also be entitled to other statutory benefits.

5.The appellants, over and above the enhanced compensation, are also entitled to solarium @ 30% and interest @ 9% per annum for a period of one year from the date of Collector taking the possession and thereafter @ 15% per annum till payment. The interest will be paid to the claimants on solarium in view of the decision of Supreme Court in Sunder Vs. Union of India, .

6.In view of enhancement of compensation by us, the award and the order of the Reference Court accordingly stand modified. We would like to make it clear that the appellants are not entitled for additional amount u/s 23(1-A) of the Act.

7.The appellants shall also be entitled to proportionate costs. These appeals stand disposed of accordingly.