

(2011) 08 DEL CK 0003

In the Delhi High Court

Case No : LA. APP. No. 472-476 of 2005

Om Prakash and Others

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 54, 6

Citation : (2011) 08 DEL CK 0003

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Deepak Khosla, for the Appellant; Sanjay Poddar, for UOI/ Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Bhasin, J.—These appeals arise out of the judgments of the learned Reference Court disposing different References made by the Land Acquisition Collector u/s 18 of the Land Acquisition Act ("the Act" in short) in respect of the lands belonging to the appellants in village Amberhai which were acquired vide Award No. 13/1991-92 pursuant to the notifications dated 10/7/1990 and 24/8/90 under Sections 4 and 6 respectively of the Act. Since same points were involved in all the appeals they were heard together and now are being disposed of also together by this common judgment.

2. Vide award No. 13/91-92 dated 10/3/92 market value of the land falling in block A was fixed @ Rs. 4.65 lakhs per acre i.e. Rs. 96,975/-per bigha and @ Rs18,500/-per bigha in respect of land in block B. Dissatisfied with the said land rates fixed by the LAC, the landowners-appellants got references made to the District Judge u/s 18 of the Act. The Reference Court , however, rejected the claims of the appellants for further enhancement in compensation amount relying upon a decision of this Court in the case of Tej Ram and Others Vs. Union of India (UOI) and Another, which was also a case arising out of the same Award which is the subject matter of present appeals.

3. The appellants then approached this Court by filing the present appeals u/s 54 of the Act and have claimed fixation of the market value of their lands taking into consideration the land rate fixed in respect of the land in village Kakrola determined by this Court @ `1,20,500 per bigha vide judgment dated 23.10.2008 in a batch of appeals of village Kakrola, the lead case being "LAA No. 69/2007 "Ved Parkash v. Union of India". Village Kakrola is claimed by the appellants to be adjoining, village Amberhai.

4. The learned Trial Court gave its findings in the impugned order dated 19.02.2005 which has been reproduced as:

16. After considering the arguments of counsels for the parties, I am convinced with the arguments addressed by counsel for Union of India and I am of the view that as Hon"ble High Court has already determined and fixed the market value of the land of village Amberhai which was acquired on the same date as in the present cases so market value of the land of village Kakrola fixed by my Ld. Predecessor will have to be ignored.

17. Counsel for the petitioners also referred to testimonies of PW1 and PW 2 and documents filed and proved on record and submitted that in case of Shri Tej Ram, Supra, the petitioners had failed to produce any evidence that is why Hon"ble High Court did not enhance the market value of the land of village Amberhai, whereas in the present cases, many evidence oral and documentary have been adduced and therefore, this Court should fix and determined the market value of village Amberhai more than the value of land fixed by Hon"ble High Court in case of Tej Ram, Supra.

18. I perused the testimonies of PW1 and PW2, Sale Deed Ex.P2 of village Bagrola, other sale deeds of village Kakrola and on perusal thereof, I am of the view that there is no convincing evidence on record which may justify the fixation of market value of the land over and above the market value of the land finally adjudicated upon by High Court of Delhi in case of Tej Ram, Supra, therefore, this argument of counsel for petitioners is no convincing.

19. In view of the reasons and discussions made herein above. It is held that Hon"ble High Court of Delhi has finally adjudicated upon that the appropriate and reasonable market value of the land in question was `96,875/-per bigha at the relevant time. This much of value of the land of village Amberhai has already been fixed and determined by Land Acquisition Collector. Therefore, it is held that claimants are not entitled for any enhancement of compensation and this issue is answered accordingly in favour of the respondents and against the claimants.

5. It was submitted by learned Counsel for the appellants that this Court had observed in the case of "Ishwar Singh v. UOI" (RFA No. 43/87 decided on 02-04-2002) that villages Kakrola, Baprola, Palam and Amberhai are located adjacent to each other and so the learned Reference Court should have fixed the market value of the land which has been fixed in respect of village Kakrola by this Court in "Ved Prakash v. UOI", (RFA No. 69/2007 decided on 23-10-2008) at

`1,20,500 per bigha for village Amberhai also, which is the village involved in these appeals. In support of this submission, learned Counsel for the appellants relied upon a decision of a Division Bench of this Court in "UOI v. Bhagwan Singh and Ors.", 47 (1982) DLT 205.

6. On the other hand, learned Counsel for Union of India relying upon the observations of the Hon"ble Supreme Court made in para No. 9 of the judgment reported as Kanwar Singh and Others Vs. Union of India, submitted that just because two villages are adjoining to each other the same cannot be the decisive factor for adopting the market value of the land fixed in respect of one village for the other village also unless it is shown by the aggrieved land owners that situation and potentiality of the land in two different villages were the same, which, contended Mr. Poddar, in the present case the appellants had failed to establish.

7. As noticed already, the trial Court has observed that there is no satisfactory evidence adduced by the appellants herein in support of their claim for further enhancement in compensation. Learned Counsel for the appellants could not point out any evidence adduced by the appellants to show that the land in village Kakrola and Ambarhai had the same potentiality. Therefore, the learned Reference Court was fully justified in accepting the market value of the land in village Ambarhai which this Court had accepted in Tej Ram's case (supra).

8. These appeals are accordingly dismissed.

9. Original judgment be kept in LA.APP. 472-476/2005 and its copy be kept in other files.