

(1994) 09 DEL CK 0071

In the Delhi High Court

Case No : C.M. 448 of 1991 in R.F.A. 274 of 1984 and 721 of 1985 and 1278 of 1991 in R.F.A. 137 of 1983

Radhey Shyam

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 01-09-1994

Acts Referred:

Land Acquisition (Amendment) Act, 1984 — Section 30(2)

Land Acquisition Act, 1894 — Section 23(2)

Citation : (1995) 58 DLT 374

Hon'ble Judges : Devinder Gupta, J; D.P Wadhwa, J

Bench : Division Bench

Advocate : B.P. Gupta, for the Appellant; Madan Lokur, for the Respondent

Final Decision : Allowed

Judgement

D. Gupta, J.—Since the facts in these applications are almost similar, the same are taken up for decision jointly.

2. For the planned development of Delhi, land situated in Kilokri was acquired by virtue of notification issued u/s 4 on 13.11.1959. Declaration u/s 6 was made on 6.6.1966. For the land which is subject matter of RFA 137/83, Collector, Land Acquisition made his award No. 12/69 in the year 1969. A reference was sought to Court and ultimately the reference Court made its award on 24.12.1982, Appeal was carried to this Court and the said appeal, RFA 137/83 was decided on 8.3.1984.

3. In the other RFA 274/84 the Collector, Land Acquisition made his award No. 34/1979-80 on 21.2.1980. The reference Court made its award on 14.2.1984 and this Court decided RFA 274/84 arising there from on 28.8.1984.

4. The case of the applicants is that since proceedings were pending before the reference Court on 30.4.1982, the appellants/applicants are entitled to the benefit of higher solarium and interest, which has not been allowed to them in

the judgment referred in the two appeals.

5. The above facts are not in dispute. In both these cases, the Collector, Land Acquisition made his award much prior to 30.4.1982 when the Land Acquisition (Amendment) Bill, 1982 was introduced in Parliament. It is also not in dispute that the reference Court in both these cases made its award before 24.9.1984 when the Land Acquisition (Amendment) Bill, 1982 became law as the Land Acquisition (Amendment) Act 68 of 1984, when it received the assent of the President. The short question which arises for determination is as to whether in such like situation when the reference Court made its award between the two dates namely 30.4.1982 and 24.9.1984, the appellants would be entitled to the benefit u/s 30(2) of the Land Acquisition (Amendment) Act. This question in fact in no more rest integra, in view of the decision of the Constitution Bench of the Supreme Court in Union of India (UOI) and Another Vs. Raghubir Singh (Dead) by Lrs. Etc., in which speaking for the Court, Pathak, C.J. at page 782 of the report said:

"We think that what Parliament intends to say is that the benefit of Section 30(2) will be available to an award by the Collector or the Court made between the aforesaid two dates or to an appellate order of the High Court or of the Supreme Court which arises out of an award of the Collector or the Court made between the said two dates. The word "or" is used with reference to the stage at which the proceeding rests at the time when the benefit u/s 30(2) is sought to be extended. If the proceeding has terminated with the award of the Collector or of the Court made between the aforesaid two dates, the benefit of Section 30(2) will be applied to such award made between the aforesaid two dates. If the proceeding has passed to the stage of appeal before the High Court or Supreme Court, it is at that stage when the benefit of Section 30(2) will be applied. But in every case, the award of the Collector or of the Court must have been made between April 30, 1982 and September 24, 1984."

6. Proceedings for determination of the compensation though had terminated before the Collector, Land Acquisition prior to 30.4.1982 but before the reference Court, the same were not concluded on that date but were concluded prior to 24.9.1982. Benefit of Section 30(2) in every case is required to be given where the award of Collector or the Court is made between the two dates, namely, 30.4.1982 and 24.9.1984. In both these cases award of the Court was made between these two dates and thus the appellants-applicants will be entitled to the benefit of additional solarium on the enhanced amount of compensation made by the reference Court as also by this Court as per provisions of Section 23(2) of the Land Acquisition Act, 1894 (as amended by the Amendment Act of 1984).

7. Consequently the applications are allowed. It is directed that on the amount of compensation as enhanced by the reference Court and by this Court, the appellants will be entitled to solarium at the rate of 30% instead of 15% and will also be entitled to interest thereon at the rate of 9% p.a. for the first year and in

case payment was not made within one year of the respective awards at the rate of 15% p.a. for the subsequent period after the expiry of one year.