

(1999) 01 DEL CK 0075

In the Delhi High Court

Case No : Regular First Appeal No. 606 of 1970

Raja Ram (Dead) Thru LRs. and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-01-1999

Acts Referred:

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

Citation : (1999) 77 DLT 831

Hon'ble Judges : Manmohan Sarin, J;Arun Kumar, J

Bench : Division Bench

Advocate : Mr. L. Chechi and Mr. Om Parkash, for the Appellant; Mr. Manish for counsel, for the Respondent

Judgement

Arun Kumar, J.—This appeal u/s 54 of the Land Acquisition Act (hereinafter referred to as the Act) is directed against the judgment of the Addl. District Judge, Delhi dated 22nd May, 1970. By a notification dated 13th November, 1959 issued u/s 4 of the Act, the land of the appellants falling within village Jaffrabad was sought to be acquired for planned development of Delhi. The declaration u/s 6 of the Act was issued on 17th August, 1962. The Collector made his award No. 1501 on 31st December, 1962. He fixed the market value of land other than the garden land @ Rs.1,500/ per bigha. In the reference u/s 18 of the Act, the learned Addl. District Judge fixed the market value of the garden land @ Rs. 4,800/ per bigha and for the remaining land he fixed the market value @ Rs. 4,300/ per bigha. In the present appeal, the appellants originally claimed compensation @ Rs.7,500/ per bigha for garden land and Rs. 6,800/ per bigha for land other than garden land. The appellants sought permission to amend their claim in appeal and they paid the balance requisite court fee. Permission to amend the claim was granted by the court. Therefore, the claim of the appellants in the present appeal stands at Rs.12,500/ per bigha for the land under garden and @ Rs. 12,000/ for rest of the land.

2. We have heard the learned counsel for the parties. The learned counsel for the

appellants mainly relied upon two decisions of this court in RFA No. 343/1969 Raj Kishan Jain through LRs. Vs. Union of India decided on 18th September 1998 and RFA No.74/1980 Brij Mohan Tayal Vs. Union of India decided on 8th December, 1998. In both these cases this court fixed the market rate at which compensation was payable to the land owners @ Rs.11,800/ per bigha. The dates of notification u/s 4 of the Act in both the cases are 13th November, 1959. RFA No.343/1969 is with respect to land falling in village Seelampur while RFA No.74/1980 is with respect to land falling in village Oldanpur. The learned counsel submitted that both these villages are in the same vicinity as the land subject matter of the present appeal and the date of notification u/s 4 is the same in the present case as well as in the two cases relied upon by the learned counsel. The learned counsel urged that the appellants should be awarded compensation at the same rate, i.e., Rs.11,800/ per bigha as in these two cases.

3. We have considered the location of the land subject matter of the present appeal which falls in village Jaffrabad and have compared it with the location of villages Seelampur and Oldanpur which were subject matter of the two cases relied upon by the learned counsel for the appellants. The map of the area shows that village Seelampur and village Oldanpur are located almost adjacent to each other and are on the left hand side of the Grand Trunk Road while proceedings from Delhi towards Ghaziabad, Uttar Pradesh. Village Jaffrabad which is subject matter of the present appeal is located far beyond villages Oldanpur and Seelampur towards interior. While Oldanpur and Seelampur are close to the Grand Trunk Road, village Jaffrabad is far away. This Bench has noticed in RFA No. 343/69 that village Seelampur used to be in a low lying area having problems of water logging. Going further down, i.e., further away from the Grand Trunk Road the position of the land may get comparatively worse. Therefore, we are unable to agree with the learned counsel for the appellants that the appellants be awarded compensation at the same rate as it was awarded in the case of lands falling in village Seelampur or village Oldanpur. These other two villages can only serve as a guide for determination of the market value of land in village Jaffrabad in view of the fact that no direct evidence by way of sale transactions of the relevant period within the village is available on record. Keeping in view the fact noticed earlier that villages Oldanpur and Seelampur enjoy a comparatively better location, we are of the considered view that it will be appropriate to fix the market value of land @ Rs. 9,000/ per bigha for the appellants' acquired land in village Jaffrabad. The appellants will be entitled to receive compensation for their acquired land in village Jaffrabad @ Rs. 9,000/ per bigha. Besides this the appellants will be entitled to solarium @ 15% of the market value and interest @ 6% per annum from the date of dispossession till the date of payment. The appellants will be entitled to proportionate costs.

4. The appeal stands disposed of.