

(2004) 04 DEL CK 0047

In the Delhi High Court

Case No : Regular First Appeal 551 of 2002

Ram Chander and Others

APPELLANT

Vs

Union of India (UOI) and Etc.

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Citation : (2004) 74 DRJ 182

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

Bench : Division Bench

Advocate : R.P. Bansal and S.K. Sharma and B.S. Saini, for the Appellant;

Final Decision : Dismissed

Judgement

Dalveer Bhandari, J.—This appeal has been filed u/s 54 of the Land Acquisition Act (in short 'the Act') against the judgment of the reference court with regard to the land acquired under award No.1/95-96 vide notification u/s 4 dated 19.3.1993 and notification u/s 6 dated 29.4.1993.

2. The appellants' land located in village Singhola was acquired vide award No.1/95-96 on 19.3.1993. The Land Acquisition Collector (in short "LAC") fixed the market value of the acquired land @ Rs.96,875/- per bigha. The appellants aggrieved by the judgment of the learned LAC filed a reference petition u/s 18 of the Act on the ground that the learned LAC did not consider situation and location of the land which was situated near the abadi of the village and touching the G.T. Karnal Road. It was also alleged that LAC did not consider that the market value of the acquired land at the relevant time was not less than Rs.3,000/- per sq. yard. It was also alleged that the learned LAC ignored the fact that all civil amenities like road, electricity, water, school, bus, railway station, hospital, etc. were available.

3. The learned Additional District Judge framed the following issues:-

1."What is the market value of the acquired land at the time of notification u/s 4

of the Land Acquisition Act?

2.Relief."

4. The appellants before the learned Additional District Judge (in short `ADJ") tendered a copy of the judgment dated 29.8.2001, Ex.P-1, whereas learned counsel for the respondents relied upon the award Ex.R-1 in evidence. The appellants while referring to the judgment Ex.P-1 submitted that the market value of the acquired land should be fixed at Rs.1,30,523/- per bigha as on the date of the notification u/s 4 of the Act dated 19.3.1993. Learned counsel for the respondents, on the other hand, referred to the award wherein the market value of the land was fixed at Rs.96,875/- per bigha as on the date of notification u/s 4 of the Act.

5. The learned ADJ after evaluating the evidence accepted the evidence Ex.P-1 tendered by the appellants while holding that the Ex.P-1 where the market value of the acquired land was fixed at Rs.1,30,523/- per bigha pertains to the land of the same village, acquired under same notification and award. The court observed that since there is no difference between the quality and potentiality of the land, he fixed the market value of the acquired land as desired by the petitioner at Rs.1,30,523/- per bigha as on the date of notification u/s 4 of the Act dated 19.3.1993. The court also observed:

" In addition to the enhancement in compensation at the rate of Rs.33,648/- per bigha, the petitioners are also entitled to get additional amount u/s 23(1-A) of the Act at the rate of 12% per annum on the market value from the date of notification u/s 4 of the Act till the date of award or dispossession, whichever is earlier and also to get solarium at the rate of 30% per annum on such market value in view of the compulsory nature of acquisition, and interest u/s 28 of the Act at the rate of 9% per annum for the first year from the date of disposal and at the rate of 15% per annum for the subsequent period till the payment on the difference between the enhanced compensation awarded by this court and the compensation awarded by the Ld. Land Acquisition Collector."

6. It is surprising that despite the fact that learned ADJ has enhanced the compensation as demanded by the appellants on the basis of Ex.P-1, still the appellants have preferred this appeal. In the appeal it is mentioned that the learned ADJ has erred in not granting compensation of at least Rs.2 lakhs per bigha.

7. The appellants have also placed reliance on Ex.A-1 (sale deed dated 24th March, 2000 of village Mamurpur); Ex.A-2 (sale deed dated 15th April, 1970 of village Mamurpur); Ex.A-3 (sale deed dated 24.2.1999 of village Satbari, Tehsil Hauz Khas); Ex.A-4 (sale deed dated 5.5.1992 of village Boodhpur Bijapur) and Ex.A-5 (sale deed dated 5th May, 1992). It is correct that Ex.A-2 to Ex.A-5 have not been mentioned in the impugned judgment by the learned ADJ.

8. We have carefully examined these sale deeds. These sale deeds do not

advance the case of the appellants any further. The land involved in Ex.A-3 is almost about 20 kms. away from the acquired land of the appellants and the sale deed is also of the year 1999. Therefore, learned ADJ correctly did not place any reliance on it. The land involved in other sale deeds are from different villages which cannot be compared with the acquired land of the appellants. The land involved in Ex.P-1 is similar to the land of the appellants. Only the appellants themselves wanted enhancement of compensation on the basis of Ex.P-1 before the reference court. In this view of the matter and in the facts and circumstances of the present case, the learned ADJ was justified in granting compensation on the basis of Ex.P-1 tendered in evidence by the appellants. The learned ADJ rightly did not rely on the sale deeds Ex.A-2 to Ex.A-5 and relied on Ex.P-1 judgment.

9. We do not find any infirmity in the impugned order. No interference is called for. The appeal being devoid of any merit is accordingly dismissed. In the facts and circumstances of this case, the parties are directed to bear their own costs.

Dalveer Bhandari, J.

R. C. Jain, J.