

(1996) 04 DEL CK 0014

In the Delhi High Court

Case No : Regular Appeal No. 53 of 1995 and Regular First Appeal No. 858 of 1987

Ram Mohan Wahee

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 12-04-1996

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1996) 2 AD 686 : (1996) 62 DLT 302 : (1996) 37 DRJ 282

Hon'ble Judges : Dr. M.K. Sharma, C.J.; M. Jagannadha Rao, J

Bench : Division Bench

Advocate : A.K. Sikri and S.S. Sabharwal, for the Appellant;

Judgement

M.K.Sharma, C.J.

(1) This is an application filed by the appellant/claimant seeking review of the judgment dated 18.7.1995 passed in R.F.A. 858/1987.

(2) In pursuance of acquisition of land belonging to the appellant situated at Village Bahapur, the Land Acquisition Collector divided the land into two blocks and fixed the market value at Rs.2,000.00 and Rs.1,500.00 per Bighas for the land. The total land which was acquired by the notification issued on 30.11.1959 u/s 4 of the Land Acquisition Act and the declaration u/s 6 was 20 Bighas in which the share of the appellant was one-third. On a reference being sought for by the appellant, the same was referred to the Additional District Judge, who fixed the market value of the land at Rs.7,250.00 per Bigha.

(3) The appellant being aggrieved filed an appeal in this court against the aforesaid determination of compensation by the reference court which was registered and numbered as R.F.A. No. 858/1987. This court after taking into consideration and analysing the evidence adduced in the case and also on consideration of different judgments of this court particularly, in Chhajju Vs. Union of India (R.F.A. 463/1979) decided on 3.12.1979, determined the

compensation of the land of the appellant at Rs.12,000.00 per Bigha taking into consideration the difference in the nature of land and criteria followed in Chhajju's case (supra).

(4) It was observed in the judgment passed by this Court in the present appeal that in Chhajju's case (supra), the compensation came to be determined and assessed at Rs.19,000.00 and Rs.16,000.00 per Bigha respectively by this Court as against compensation assessed at Rs.6,000.00 and Rs.4,500.00 respectively and on the basis of the said analogy for the land which was assessed at Rs.2,500.00 per Bigha by the Land Acquisition Collector, the just and fair compensation for such type of land on the basis of the ratio of Chhajju's case (supra) would be Rs.12,000.00 per bigha. Accordingly this court fixed the market value of the land of the appellant at Rs.12,000.00 per Bigha.

(5) Now through the present application seeking for review, the appellant drew our attention to the fact that for the same land, this court in case of Dlf Universal Limited Vs. Union of India (R.F.A. 115/1973) with (R.F.A. (Cross Appeal) No. 193/1993) decided on 27.10.1994 has determined compensation at Rs.19,000.00 per bigha and granted the same to the appellant therein, namely, Dlf Universal Limited (hereinafter referred to as DLF) for the very same land where the share of Dlf was 45 per cent and that of the appellant and his relations was 55 per cent, the share of the appellant being one-third of 55 per cent.

(6) Mr. Sikri appearing for the appellant submitted that since for the same land, the Dlf has been granted on determination of compensation at Rs.19,000.00 per Bigha by this Court, the same benefit and the same assessment of compensation should also be made in favor of the appellant herein determining the land acquisition compensation for the land of the appellant at Rs.19,000.00 per Bigha. According to the learned counsel there is an error apparent on the face of the record as the judgment passed by this Court in the case of Dlf Universal Limited (supra) was not considered which is relevant for the purpose of determining the compensation in the present case. We have considered the submissions of the learned counsel for the appellant and also perused the judgment in the case of Dlf Universal Limited (supra), a copy of which is placed before us.

(7) By notification issued on 13.11.1959 u/s 4 of the Land Acquisition Act, a total land measuring 20 Bighas in Village Bahapur was acquired wherein, the share of the appellant was one-third. On perusal of the records, it appears, that the balance share of the said land belonged to the DLF. The Land Acquisition Collector divided the land into two blocks and fixed the market value at Rs.2,000.00 and Rs.1,500.00 per Bigha for the land. The land of the appellant and that of Dlf was categorized in Block "A" and, Therefore, the Collector awarded market value to the appellant as also to Dlf at Rs.2,000.00 per Bigha which later on came to be enhanced in the reference proceedings to Rs.7,250.00 per Bigha.

(8) In Chhajju's case (supra) , this court determined compensation of land in

respect of the land situated in Village Bahapur and acquired under notification of the same date, that is, 13.11.1959 at Rs.19,000.00 per Bigha and Rs.16,000.00 per Bigha respectively for the land categorized by the Land Acquisition Collector under Block 1" and "2" respectively for which he had fixed compensation at Rs.6,000.00 and Rs.4,500.00 respectively. This Court, however, in the case of Dlf Universal Limited (supra) without any categorization of the land into different blocks determined the compensation at Rs.19,000.00 per Bigha for the land of Dlf acquired by notification issued u/s 4 of the Act on 13.11.1959, As this Court in Dlf Universal Limited (supra) has determined the market value of the same land at Rs.19,000.00 per Bigha, we see no reason why the same rate should not be determined as fair and just compensation of the land of the appellant, the same being part and parcel and same piece of land for which Rs.19,000.00 per Bigha came to be determined by this court in Dlf Universal Limited (supra).

(9) In the result, we modify our judgment and order dated 18.7.1995 and fix the market value of the land acquired in the present case at Rs.19,000.00 per Bigha. Consequently the review application is allowed to the extent indicated above by fixing the market value of the land in question at Rs.19,000.00 per Bigha. We further order that the present appellant/claimant would be entitled to one-third share in the 55 per cent compensation falling to the share of the land owners. Over and above, the appellant/ claimant shall also be entitled to solatium at 30 per cent and interest u/s 28 of the Act in accordance with the provisions of law on the enhanced compensation. It is further made clear that, the claimant/ appellant shall not be entitled to any interest u/s 28 of the Act from 5.9.1972 to 17.5.1982 as agreed to by him before the Learned Additional District Judge. The appellant/claimant shall also be entitled to the cost limited to the court fee.