
(2009) 12 DEL CK 0091

In the Delhi High Court

Case No : Regular First Appeal No. 641 of 1993

Rattan Lal Aggarwal

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 16-12-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 19, 4

Citation : (2009) 12 DEL CK 0091

Hon'ble Judges : S.L. Bhayana, J

Bench : Single Bench

Advocate : R.K. Shukla, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Allowed

Judgement

S.L. Bhayana, J.—The appellants have preferred the present appeal against the award/order dated 14.7.1992 passed by the Additional District Judge, Delhi in LAC No. 51/1991.

2. The brief facts of this present appeal are that the land of the appellant situated at village Khichripur, Delhi was acquired vide award No. 97/83/84 by the Government. The Government acquired total land measuring 30 bighas 7 biswa as per details given in Section 19 statement of the Land Acquisition Act, 1894. The land had been acquired by the LAC by awarding the compensation with reference to notification u/s 4 of the Act, dated 07.07.79, @ Rs. 2500/- per bigha. That in reference petition u/s 18 of the LA Act vide LAC No. 51/1991, the Ld. ADJ Vide the judgment under appeal dated 14.7.1992 fixed the market value of the land in question @ Rs. 18,460/- per bigha along with solatium at 30% pa and other statutory benefits the market value of the acquired by the appellant was determined by the learned ADJ by placing reliance on the judgment of this Hon'ble Court, being RFA No. 241/1982, pertaining to the land of village Ghajipur, wherein the compensation has been awarded @ Rs. 6500/- with reference to Section 4 notification dated 03.03.1964 by allowing 12% increase per annum by taking into consideration the escalation of the land prices between

the year 1964 to 1979. Section 4 notification in the instant case is dated 07.07.1979.

3. Learned Counsel for the appellant had initially claimed enhancement in compensation for the land in question in the petition u/s 18 of the Land Acquisition Act @ Rs. 250/ per sq yd. Learned Additional District Judge vide order and judgment dated 14.7.1992 enhanced the compensation to Rs. 18,460.00 per bigha and also granted other statutory benefits in accordance with law.

4. The appellant still dissatisfied by the enhancement granted by the learned reference court preferred the present appeal seeking further enhancement of the compensation besides the statutory benefits.

5. Learned Counsel for the both parties have placed reliance upon Judgment of this Court, Mangtoo @ Mangoo Vs. Union of India (UOI) and Others, in which the market value of the land acquired in the same village through notification dated 13.11.1959; has been fixed by this Court @ Rs 8,000/- per bigha.

6. Learned Counsel for both the parties have placed reliance upon the Division Bench Judgment of this Hon"ble Court titled as "Bedi Ram v. U.O.I and Ors." passed on 23.3.2001 in which taking into consideration the rising trend in escalation of the prices of land in the adjoining village i.e. Dallupura, Mandawali, Fazalpur, Karakardooma, Khichripur, Ghazipur and village Chilla Sarod Bangar and village Kondali with reference to Section 4 notification dated 13.11.59 market value of the land has been fixed in respect of all the aforesaid villages @8,064/- per bigha.

7. Learned Counsel for the respondent contends that in Bedi Ram's case this Court while considering the assessment of the market value of land situated in village Kondali, which was acquired through two notifications, dated 8.2.1973 and 19.8.1976. The compensation rate of Rs 22,850.00 per bigha was awarded for land acquired through notification dated 8.2.1973. However giving appreciation at the rate of 12% p.a. over this rate, this Hon"ble Court awarded compensation for the notification dated 19.8.1976 at Rs 34,150.00 per bigha. It is submitted that even if this formula is adopted in the present case there is a time gap of about three years. Thus, the maximum compensation in the present case would be Rs. 46,444.00 per bigha ($34150.00 \times 36\%$).

8. I have heard learned Counsel for the parties and perused the record.

9. I am in respectful agreement with the law laid down by Hon"ble Supreme Court in Sunder Singh (supra) and also by the Division Bench of this Court in the case of Bedi Ram (supra). The facts of both these cases apply to the facts of the present case also, wherein the compensation was increased by 12% per annum over and above the market value of the land. In the present case there being a time period of three years from 8.2.1973 to 19.8.1976, the increase at 12% would come to 36%. Thus, the maximum compensation in the present case would be Rs 46,444.00 per bigha for the land acquired on 19.08.1976.

10. In my opinion, the appellants are entitled to increased compensation at Rs 46,444.00 per bigha. The compensation awarded by the learned trial Court is increased from Rs 18,460/- to Rs 46,444/-.

11. On 07.07.2005, this appeal was dismissed for non-prosecution. Thereafter, the appellant filed CM No. 10671/05 for restoration of the appeal. When the application for restoration of the appeal came up for hearing on 01.08.2009, the learned Counsel for the appellant made a statement that the appellant shall not claim any interest w.e.f. 07.07.2005 till today. In view of the statement made by learned Counsel for the appellant, the appellant is not entitled for any interest w.e.f. 07.07.2005 till today. However, the appellant is entitled to other statutory benefits awarded by the trial Court in the impugned judgment.

12. With these observations, the appeal is allowed and stands disposed of.