

(2002) 07 DEL CK 0062

In the Delhi High Court

Case No : Regular First Appeal 216/79

Ravi Shanker (deceased)

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 12-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 30, 31, 54

Citation : (2002) 07 DEL CK 0062

Hon'ble Judges : Shamik Mukherjee, J;Devinder Gupta, J

Bench : Division Bench

Advocate : Navin Chandra, for the Appellant; Rajesh Sharma and A.P. Gupta, for the Respondent

Judgement

1. The appellant in this appeal filed u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) challenged the legality and validity of the award of the reference court (Sh. Harkishan Malik, ADJ, Delhi) dated 27.2.1979 in LAC No.132/69 answering reference u/s 30/31 of the Act.

2. 33 bigha 18 bids was of land comprised in khasra Nos.628/2/2/2/1, 628/2/2/2, 628/2/1/2 & 628/1/2 situate in village Bahapur was acquired for Planned Development of Delhi. The Collector Land Acquisition made his award No.2219. Out of the amount of Rs.1,29,797.53, which was the amount of compensation assessed @ Rs.2,500/- per bigha, compensation was paid by the Collector Land Acquisition as follows for 13 bigha 8 bids was of land:-

Ravi Shanker, appellant Rs.38,431.91 Mahant Pirthi Nath (Predecessor of Mahant Ram Nath) Rs.14,214.55

3. For the remaining land dispute about apportionment of compensation was referred to the Court. Amount of Rs.77,151.07 was sent to the court along with reference u/s 30/31 of the Act.

4. The reference court framed various issues and accordingly answered the reference holding that Ravi Shanker was a lessee with respect to land measuring

27 bigha 3 bids was comprised in Khasra No.628/2/1/2 and 628/1/2. Lease was for a period of 99 years with effect from 1949 at an annual rent of Rs.206/- and by virtue of the terms of the lease Ravi Shanker was entitled to raise construction, use the land for any other purpose he likes. It was also noticed that Ravi Shanker had executed seven sub leases Ex.AW1/5 to Ex.AW1/11 in favor of Shiv Nath, Seva Ram, Ram Saran, Balraj Madhok, Virender Nath, Rikhi Ram and Dewan Singh. In addition sub leases were also executed in favor of Brij Raj and Brij Lal. The reference court after recording his findings on various issues concluded that out of Rs.77,151.07 an amount of Rs.25,830.31 is to be paid to M/s. Sharma & Company; Rs.13,856.60 to Mahant Ram Nath. Out of the balance amount of Rs.37,464.16 the amount to be distributed between sub lessees would be at the rate of 20787 per sq. yard.

5. The grievance on which the appellant came in appeal was that vital clauses in the sub-lease agreements has not been duly considered. As per the clauses in sub leases AW1/5 between Shiv Nath and Ravi Shanker (Khasra No.628/1/2- 800 sq. yds.), AW-1/6 between Sewa Ram and Ravi Shanker (Khasra No.628/1/2 - 800 sq.yds.), AW-1/7 between Ram Saran and Ravi Shanker (Khasra No.628/1/2 - 800 sq. yds.), AW-9/8 between Balraj Madhok and Ravi Shanker (Khasra No.628/1/2 - 800 sq. yds), it is clearly stipulates that in case of acquisition it is the Lesser i.e. the appellant, who alone is entitled to compensation; the claims dated 17.4.72 filed by Shri G.S. Sarin, sub-lessee of 2150 yds. of land, out of Khasra No.628/2/2/2/1 Shri Mahender Prasad for self and as attorney for Smt. Radhey Pyari, Shri Girish Prasad, Mahesh Prasad, Rajaeshwar Prasad, sub-lessees of 800 sq. yds. of land out of Khasra No.628/1/2, Shri Bans Gopal, sub-lessee of 420 sq. yds. of land out of Khasra No.628/2/1/2 Shri Sidh Gopal Sarup, sub lessee of 420 sq. yds out of Khasra No.628/2/1/2, Shri R. Mohan Saxena and Smt. Radha Kishan, sub-lessees of 800 sq. yds of land out of Khasra No.628/1/2, Shri Nand Bihari Lal and Mukand Bihar Lal sub lessees of 800 sq.yds. of land out of Khasra No.628/1/2, had compromised and settled with Ravi Shanker appellant and had no objection in case the compensation of the said land is granted and paid to him.

The appellant was also a perpetual lessee under Mahant Ram Nath, respondent No.2 and was in possession of land measuring 650 sq.yds. out of Khasra No.628/1/2 and was entitled to full compensation or at least to the extent of 73% as agreed between him and the owner Mahant Ram Nath before the Land Acquisition Collector and the same deserved to; be paid to the appellant; the appellant is entitled to compensation in respect of 3200 sq. yds. of land as per AW-1/5 to AW-1/8. On the basis of compromise statements of respondents 16 to 31 made in their claims dated 17.4.72, the appellant is also entitled to compensation in respect of land measuring 5390 sq. yds. and in addition the appellant is entitled to compensation in respect of plot of land measuring 650 sq. yds. as perpetual lessee, making a total of 9240 sq. yds. of plotted area out of Khasra Nos.628/1/2 and 628/2/1/2 in the revenue estate of village Bahapur, Delhi. Calculating at the rate of about 3.75 per sq.yd. as awarded by the Land

Acquisition Collector for an area of 9240 sq. yds. the compensation claimed comes to Rs.30112/- and reducing to 73% as agreed between the owner and the lessee before the Land Acquisition Collector and so paid to him, this amount comes to Rs.25,294/-. The appellant also stated that he does not claim any relief against the other interested persons mentioned in the reference u/s 30/31 of the Act. He had imp leaded only those interested persons against whom relief was claimed in appeal.

6. During pendency of the appeal Mahant Ram Nath has already been paid a sum of Rs.13,856.60 and there is no dispute for payment of this amount. Dewan Singh, Rikhi Ram and Mithlesh Kumar and one Brij Lal have also been paid a sum of Rs.2,341.14, Rs.4570.79 and Rs.1170.56 for 840, 1640 and 420 sq. yds. of land respectively. It has also been admitted on behalf of the appellant that the heirs of Shri Ram Saran (now deceased) namely Shri A.P. Gupta and Shri Rakesh Gupta be paid for their plot of land measuring 800 sq.yds an amount @ Rs.2.787 per sq. yd. in equal shares i.e. Shri A.P. Gupta for 400 sq. yds. and Shri Rakesh Gupta for another 400 sq. yds.

7. It has also been noticed by us that Sharma & Company owned 6 bigha 15 bids was of land and as per the award of the reference court were to be paid an amount of Rs.25,830.31 have instead been paid a sum of Rs.37,775.12 which is in excess of the awarded amount. This aspect will have to be considered either by the reference court or by the Collector Land Acquisition as to how and in what manner excess amount had been released to M/s. Sharma & Company.

8. There has been no opposition to the appellant's appeal by the other plot holders, since according to the appellant the matter stood already settled with them, as noticed above. In view of this position the amount remaining outstanding including the excess amount paid to M/s. Sharma & Company is payable to the appellant, which fact is also borne on record. As regards the share of Mahant Pirthi Nath and Ravi Shanker they had settled their differences before the reference court and the amount of compensation was accordingly apportioned amongst them. Other plot holders did not agitate in appeal the right of the appellant for the balance amount only the persons, who agitated were the heirs of Ram Saran to whom on behalf of the appellant it is stated that the appellants have no objection. In view of the above the appeal is allowed. The award of the reference court is modified to the extent that Shri A.P. Gupta and Rakesh Gupta, the two heirs of deceased Ram Saran are held entitled to and be paid in equal shares the amount for 800 sq. yds. of land @ 2.787 per sq. yds. The balance amount is held payable to the appellant Shri Ravi Shanker, now represented by his Legal representatives. The excess amount, over and above the amount of Rs.25830.31, paid to M/s. Sharma & Company will be liable to be recovered and paid to the appellant. Ordered accordingly.

9. The appeal stands disposed of.