
(2009) 04 DEL CK 0121

In the Delhi High Court

Case No : Regular First Appeal No. 661 of 1988

Risal Singh and Others

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

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

Citation : (2009) 04 DEL CK 0121

Hon'ble Judges : Manmohan Singh, J;A.K. Sikri, J

Bench : Division Bench

Advocate : N.S. Negi, for the Appellant; Sanjay Poddar and Ramesh Ray, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Singh, J.—This is an appeal u/s 54 of the Land Acquisition Act, 1894 (for short, the "Act.") against award of compensation given by the learned Additional District Judge, Delhi in LAC No. 110/1982, which was a reference made to him u/s 18 of the Act. The land in question is situate in village Peepal Thala in Delhi in respect of which notification u/s 4 of the Act was issued on 13.6.1980, followed by declaration u/s 6 of the Act on 9.9.1980. Award No. 9/1982-82 was made by the Land Acquisition Collector (LAC) on 5.8.1981. The LAC fixed the market value of the land at Rs. 8800/- per bigha. He also granted compensation of Rs. 2000/- for well, Rs. 4800/- for trees and Rs. 7000/- for boundary wall.

2. In the Reference, the Reference Court enhanced the market value by fixing the same at Rs. 34,000/- per bigha as on the date of the notification u/s 4 of the Act. Likewise, the compensation for boundary wall, well, shops and trees was also enhanced. In the present appeal filed by the appellant, the appellants seek further enhancement.

3. Consideration of this appeal was deferred by passing order on 18.12.1997

because of the reason that the same issue which is involved in this appeal was also pending consideration before the Full Bench in RFA No. 9/1970. That appeal also involved the land of Peepal Thala where notification u/s 4 of the Act was issued on 10.9.1958. Said reference by the Full Bench was decided on 4.12.1988 and the judgment of the Full Bench is reported as Rameshwar Dayal and Ors. v. Union of India 77 (1999) DLT 1 (FB). A perusal thereof shows that the Full Bench has fixed the compensation at Rs. 5000/- per bigha. While fixing the aforesaid compensation, the Full Bench opined that for fixing compensation on the basis of instances of sale available in respect of the same village would be preferable and where such instances are not available, one has to go to the adjoining village to find out the prevailing market price of the land.

The Full Bench took note of three instances of sale from the same village, which were available. One such sale was dated 10.9.1958 at Rs. 4545/- per bigha. The Full Bench was of the opinion that this was nearest to the date of Section 4 notification, which was issued on 10.9.1958 and, therefore, made it the basis for fixing the compensation of Rs. 5000/- per bigha in the following manner:

8. ...We are of the considered view that a fair market value of land in the present case would be Rs. 5,000 per bigha. While fixing this price we have kept in view the fact that the last transaction which gives a rate of Rs. 4,500 per bigha approximately is of a comparatively smaller piece of land. For this reason, we think that the price of Rs. 4,500 per bigha could be evened out to Rs. 4,000 per bigha. To this we add Rs. 1,000 per bigha to account for the 14 month time difference between the sale transaction in question and the date of Section 4 notification in the present case. This gives us the figure of Rs. 5,000 per bigha. The appellants will be entitled to receive compensation determined @ Rs. 5,000 per bigha for their 1/3rd share of the acquired land.

4. In the instant case, as already pointed out above, the notification u/s 4 of the Act was issued on 13.6.1980. We find from the perusal of the impugned judgment of the learned ADJ that the learned ADJ discussed various alternatives, which were put forth before him, for determining the market value of the land. One alternative which found favour with the learned ADJ was the sale of land in the same village Peepal Thala itself wherein the sale price for 50 sq.yds. of land was Rs. 30/- per sq.yd. The date of sale was 14.10.1971. The ADJ was of the opinion that the said plot was much smaller in size as compared to 2 bigha and 16 biswas of land in the present case and, therefore, some deductions had to be made from the aforesaid price. At the same time, sale transaction was of 1971, whereas notification was of the year 1980. Taking into consideration both the negative and positive aspects, the learned ADJ fixed the market value at Rs. 32/- per sq.yd. in the following manner:

15. ...Balancing plus and minus factors, and always realizing that there is scope for some element of estimation and surmises, in a case of given nature, for fixing the market value, and no preciseness in evolving out the market value, may be possible, giving a marginal increase of Rs. 2/- per sq.yd., I fix market value of

Rs. 32/- per sq.yd. (Rs. thirty two per sq.yd.) in the present case.

5. The learned ADJ was of the view that more or less same market value would be arrived at if one was to take into consideration Award No. 102-A/72-73 in respect of the same village. In that case, the market value was fixed at Rs. 13,300/- per bigha by the Court, wherein the land was acquired 14 years before the present acquisition. Giving suitable enhancement thereupon, the trial court was of the opinion that the enhancement should be roughly $2\frac{1}{2}$ times and, therefore, it would be between Rs. 30,000/- per bigha and Rs. 33,250/- per bigha. Adopting average thereof, he arrived at the same value at Rs. 32/- per sq.yd. and Rs. 32,000/- per bigha. The learned ADJ added Rs. 2/- per sq.yd thereupon to which benefit, according to him, the appellants were entitled to on account of various factors such as establishment of industries in the nearby colonies and pressure of land of village Peepal Thala situate towards the North of GT Karnal Road. In this manner, the value is fixed at Rs. 34,000/-.

6. We have seen that the Full Bench in Rameshwar Dayal (supra) fixed the market value at Rs. 5,000/- in respect of land acquired vide notification dated 10.9.1958, which is approximately 22 years earlier to the present acquisition. Even if we adopt the yardstick of 12% p.a. enhancement on the said market value, it would be less than the market value fixed by the learned ADJ. Therefore, from whatever angle the matter is to be looked into, the compensation @ Rs. 34,000/- is appropriate and does not call for any interference.

This appeal is, accordingly, dismissed.