(1994) 07 DEL CK 0050

In the Delhi High Court

Case No : Regular First Appeal No. 102 of 1980

Sada Nand APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 01-07-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1994) 3 AD 828 : (1994) 55 DLT 402

Hon'ble Judges : Devinder Gupta, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : Urmila Narang, for the Appellant;

Judgement

Devinder Gupta, J.

(1) This appeal has arisen out of an award dated 7/11/1978 made by Shri B.B. Gupta, Additional District Judge, Delhi by answering a reference u/s 18 of the Land Acquisition Act and determining the market value of the land at the rate of Rs. 1,450.00 per bigha for the appellant''s land situate in village Chilla Sirodha Banger acquired for the purpose of planned development of Delhi through Notification issued u/s 4 of the Act on 13.11.1959.

(2) The Collector, Land Acquisition through his award dated 29.5.1974 had fixed the market value of the acquired land at Rs. 1,140.00 per bigha which was enhanced by the Additional District Judge to Rs. 1,450.00 per bigha. In the instant appeal ,the appellant has claimed further enhancement at the rate of Rs. 6,000.00 perbigha. Separate application has been made by the appellant praying that in case higher market value is determined by this Court, the same be awarded subject to payment of deficient Court fee by the appellant.

(3) We have heard the learned Counsel for the appellant. It is contended by her that since the land situated in Dhalupura and Karkardooma were also acquired under the same notification for the same public purpose, namely, for the planned development of Delhi, Therefore, the appellant is also similarly situated and

should be awarded same amount of compensation which has been awarded in the case of Dhalupura and Karkardooma. Learned Counsel for the appellant has relied upon judgments of this Court pertaining to the awards in village Dhalupura and Karkardooma.

(4) The question which has arisen in this appeal is as to whether the appellant is entitled to the market value of the land at the same rate at which it has been awarded for the land situated in village Dhalupura and Karkardooma. In order to claim same amount of compensation it was incumbent for the appellant to have led some evidence on record to point that the lands situated in village Dhalupura and Karkardooma were similarly situated land with similar potentialities as on the date of the notification u/s 4 of the Land Acquisition Act. On perusal of the record of the Additional District Judge, it will be noticed that absolutely no evidence has been led on behalf of the appellant except tendering copies of two awards ,Ext. P-1 and P-2. No oral evidence is examined in order to show that the acquired land which is situated in Chilla Siroda Bangar had same and similar potentialities or were similarly situate as compared to the lands located in Karkardooma and Dhalupura. The mere fact that village Dhalupura is at a close proximity alone will not entitle the appellant for being treated similarly since the sine quo non for grant of same and similar compensation is that the lands be similarly situate having similar potentialities. The reference Court took note of Ext. P-2, copy of the judgment in Land Acquisition Case No. 117/77 of village Karkardooma where market value of the land has been determined at Rs. 6,000.00 per bigha and declined to place reliance thereupon in the absence of any evidence of similarity with the acquired land. For the aforementioned reasons market rate determined in R.F.A.128 of 1982 decided on 11.4.1991 (0m Parkash v. Union of India) which pertains to village Dhalupura is of no avail to the appellant.

(5) There are various methods of valuation of land acquired under the Act, the well recognised being (a) the price paid within a reasonable time in bonafide transactions of purchase of the lands acquired or of the lands adjacent to the land acquired and possessing similar advantages; (b) a number of years'' purchase of the actual ,or immediately prospective, profit from the land acquired; (e) the opinion of valuators or experts. However the mode of valuation is not governed by any uniform rule and must be left to the discretion of the Collector and the Court. Under the first mode sales of similar lands having similar facilities in the neighborhood within a reasonable time are helpful in determining the market value of any land, which can be done by producing on record relevant evidence, namely, copies of sale deeds, which has not been done in this case.

(6) For land situated in village Chilla Sirodha Bangar in Land Acquisition CaseNo-273/77, the market value has been determined at the rate of Rs. 1,450.00 per bigha which is also the market value allowed in the case of the appellant. In appeal, reliance has also been placed by the learned Counsel for the appellant on the supplementary awards made by the Collector for the same village Chilla Sirodha Bangar on 23.3.1977. Market value of the land which was

the subject matter of this supplementary award No.52-E/71-72 was also the subject matter of notification dated 13.11.1959 of Chilla Sirodha Bangar. In that case Collector, Land Acquisition fixed the market value of Block-A land at the rate of Rs. 1,900.00 per bigha and of Block-B at the rate of Rs. 1,300.00 per bigha. Collector also noticed that with respect to four awards of same village he had earlier fixed market value at the rate of Rs.l,140.00 per bigha but in some of the cases the Additional District Judge had enhanced the amount of compensation from Rs. 1,800.00 per bigha to Rs. 2,000.00 per bigha depending upon the potentiality of the land. Thus, enhanced award was made. In the absence of any other evidence on record, reliance can be placed only on this award of the Collector in which reference is made to some decisions of Additional District Judge fixing the highest market value in this village at Rs.2,000.00 per bigha. No other decision or award has been brought to our notice where lands of village Chilla Sirodha Bangar might have been equated with other lands where higher market value has been allowed. Consequently we allow the appeal and hold that the appellant will be entitled to compensation at the rate of Rs. 2,000/- per bigha besides solarium at 15% p.a. and statutory interest at the rate of 6% p.a.on the enhanced compensation from the date of taking possession till payment with proportionate costs of appeal.