
(1994) 09 DEL CK 0030

In the Delhi High Court

Case No : Regular First Appeal No. 40F of 1970

Satyawati G. Mohatta

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 11-09-1994

Acts Referred:

Land Acquisition Act, 1894 — Section 30

Citation : (1994) 31 DRJ 102

Hon'ble Judges : D.P Wadhwa, J; Cyriac Joseph, J

Bench : Division Bench

Advocate : J.K. Seth and Poonarn Dass, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) This appeal u/s 54 of the Land Acquisition Act, 1894 for short "the Act") is directed against judgment dated 17 April 1969 of the learned Additional District Judge, Delhi, on a reference made to him u/s 18 of the Act. The appellants pray that the compensation of Rs.16,388.00 awarded to them by the Land Acquisition Collector and upheld by the Additional District Judge, Delhi, be enhanced to Rs.65,000/.

(2) Land of the appellants measuring 630 square yards at Malka Ganj, Subzi Mandi, Delhi, was acquired for the construction of the M.B. School of the Municipal Corporation of Delhi. A notification u/s 4 of the Act was issued on 11 April 1955 and declaration u/s 6 was issued on 6 March 1961. The Land Acquisition Collector gave his award No. 1208 dated 12 October 1961 and fixed the market value of the land at Rs.26.00 per square yard. He further directed that out of the compensation so awarded, 25% of the same would be payable to the tenants who were in occupation of the land. The appellants being the owners felt dissatisfied with the award on two counts (1) the market value fixed by the Collector, and (2) his awarding 25% of the compensation to the tenants and subtenants, which according to the appellants they were not entitled to, and,

Therefore, sought a reference u/s 18 of the Act. The claim of the appellants was contested both by the Union of India and the tenants and some of the sub-tenants. The tenants and sub-tenants urged that they were entitled to 50% of the compensation. Though these persons appeared at the initial stages of the reference, they stopped appearing subsequently. The Additional District Judge, who heard the reference, framed the following issues :-

1. To what enhancement in compensation, if any, are the claimants entitled ? 2. Are the tenants not entitled to any share in compensation ? 3. If the tenants are entitled to a share in compensation, what should be fair and reasonable apportionment of compensation between the landlords and the tenants ? 4. Is it open to the tenants without seeking an independent reference u/s 31 of the Land Acquisition Act to challenge the apportionment as awarded by the Land Acquisition Collector ?

(3) On issues 2 and 3, the Additional District Judge held that there was no justification for increasing the percentage of compensation to 50% as contended by the tenants and sub-tenants. He said that they were entitled to 25% of the compensation as awarded by the Collector. The Additional District Judge, however, made it clear that in the present reference u/s 18 of the Act the tenants or the sub-tenants were not entitled to anything out of the enhanced compensation, if any, because it was only a person who had sought the reference who was entitled to the enhancement. The Additional District Judge further held that he could go into the question of apportionment under a reference u/s 18 of the Act and that it was not necessary to refer to section 31 of the Act.

(4) On the first issue, after examining the evidence on record, the Additional District Judge said that he found no justification in giving any enhancement and decided the issue against the appellants. This led to filing of the present appeal.

(5) Mr. Seth, learned counsel for the appellants, said that the land had been let out to one Badam Singh at a monthly rent of Rs.87.50.00 and that he without their permission inducted sub-tenants who in turn made unauthorised structures. Since they were liable to eviction, it was contended that they were not entitled to any share in the compensation. Mr. Seth said that Badam Singh was a tenant of open space which was outside the purview of the rent control laws as applicable to Delhi and that he could be evicted after termination of tenancy by giving 15 days notice.

(6) It is difficult to lay down an exact formula for apportioning the amount of compensation between the landlord and the tenant which would be of any general application. When in arriving at the market value of the land under acquisition an amount of arbitrariness creeps in, any order for apportionment may also appear to be arbitrary. The apportionment of compensation between the landlord and tenant cannot be same in all the cases and it has to be different in different cases relying on the facts of that particular case. Of course, a distinction has to be drawn where a tenant is liable for immediate eviction for

some contravention of the tenancy agreement either under the Transfer of Property Act or under the rent control laws and where a tenant is protected under the rent control laws as may be applicable. Considering all the facts in the present case, we find no error in the order of the Collector or the learned Additional District Judge apportioning the amount of compensation between the owners and tenants in the ratio of 75 : 25.

(7) The learned Additional District Judge analysed the evidence regarding market value of the acquired land. He referred to various sale deeds in the vicinity and that at Malka Ganj itself. Some of the sale deeds pertain to sale of built up properties which were put to auction by the Regional Settlement Commissioner. On that basis the Additional District Judge came to the conclusion that the market value of the land was rightly assessed at Rs.26.00 per square yard by the Collector. It was also noticed that the prices of these properties were adjusted against verified claims of the displaced persons. It is a matter of common knowledge that the verified claims could be purchased in the market for a value less than its face value. That would certainly depress the market value of the property which had been put to auction and will further decrease the market value of the acquired land. However, the learned Additional District Judge said that there was nothing on the record to indicate as to what was the actual value of the verified claims at the time of the notification u/s 4 of the Act in the present case. Mr. Seth, learned counsel for the appellants, was unable to show any piece of evidence from which it could be said that the market value of the acquired land was more than what was fixed by the learned Additional District Judge. In this view of the matter it is not possible to fix the market value of the land at a higher rate than that was allowed by the learned Additional District Judge.

(8) We would, Therefore, dismiss the appeal. Since the respondents did not appear, there will be no order as to costs.