
(2011) 03 DEL CK 0301
In the Delhi High Court
Case No : L.A. Appeal No. 579 of 2010

Shri Sat Prakash	Vs	APPELLANT
Union of India (UOI) and Another		RESPONDENT

Date of Decision : 21-03-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 19, 23(1A), 4, 6

Citation : (2011) 03 DEL CK 0301

Hon'ble Judges : Valmiki J Mehta, J

Bench : Single Bench

Advocate : I.S. Dahiya, for the Appellant; Sanjay Poddar, for Respondent No. 1/
UOI, for the Respondent

Final Decision : Disposed Off

Judgement

Valmiki J Mehta, J.—By means of this Regular First Appeal under the Land Acquisition Act, 1894, the Appellant challenges the impugned judgment and decree dated 15.12.2006 of the Reference Court u/s 18 of the Land Acquisition Act, 1894. By the impugned judgment, the Reference Court of the Additional District Judge has granted compensation @ Rs. 12,66,400/- per acre besides other statutory benefits and the Appellant seeks enhancement of the compensation granted. In the present case, Section 4 notification is dated 24.8.1999 with respect to village Tikri Kalan and for which Award was passed on 3.4.2002.

2. Learned Counsel for the Appellant has drawn the attention of this Court to the judgment dated 19.12.2008 passed in various connected cases with lead case being Pratap Singh (dead) through LRs. etc. v. Union of India and Ors. and which pertained to the following Section 4 notifications in the same village of Tikri Kalan, Delhi:

Sr. No.

Award No.

Details of acquired land Bigha-Biswa

Date of Notification

Purpose

2.

91/1983-84 TikriKalan, Delhi Dated 14.2.1984

60-08

28.11.1981

Widening of Rohtak Road

Possession taken over on 28.7.1981 of land 60 bigha 08 biswas.

2/1997-98 TikriKalan, Delhi Dated 23.7.1997

560-11

24.7.1995

Settlement of PVC dealers of Jawalpuri, under PDD. M.V. fixed @ Rs.168000/- pb

Possession of 561 bigha 10 biswas land notified under Sec.6 of the LA Act has been taken/handed over

4.

17/1997-98 TikriKalan, Delhi Dated 23.12.1997

502-06

16.11.1995

Settlement of PVC dealers of Jawalapuri, under PDD. M.V. fixed @ Rs.168000/-pb

Possession taken over on 30.1.1996 of land 502 bigha 06 biswas.

5.

18/1997-98 TikriKalan, Delhi Dated 23.12.1997

140-02

16.11.1995

Construction of 40 meter wide road for PVC Market under PDD. MV fixed @ Rs.168000/- pb

Possession taken over on 30.1.1996 of land 140 bigha 02 biswas.

6.

4/DCW/1998-99 TikriKalan, Delhi Dated 16.10.1998

84-11

11.6.1996

For expansion of LPG bottling plant Indian Oil Corporation Ltd. under PDD. M.V. fixed @ Rs.168000/- pb

Possession taken over on 21.4.1997 of land 84 bigha 11 biswas.

7.

3/DCW/1998-99 TikriKalan, Delhi Dated 16.10.1998

156-15

11.6.1996

For setting up sports school near Ghevra More, M.V. fixed @ Rs.208333/- pb

Possession taken over on 21.4.1997 of land 84 bigha 11 biswas

8.

2/DCW/2004-05 TikriKalan, Delhi Dated 16.10.1998

480-14

17.12.2002

For K.V. Grid Sub Station M.V. fixed @ Rs.3,27083.33/- p.b.

Possession taken over on 21.4.1997 of land 84 bigha 11 biswas.

3. The said judgment dated 19.12.2008 also dealt with the issue of yearly enhancement to be granted and while considering this aspect, the said Court has held as under:

49. Appeals arising out of Award No. 2/DCW/2004-05 dated 20.9.2004

In respect of these acquisitions, Notification u/s 4 of the Act was issued on 17.12.2002 and the Award was rendered on 20.9.2004. The learned ADJ has made the Award No. 2/1997-98 dated 23.7.1997 as the basis, as per which the market value of the land for Block-A is fixed at Rs. 1,68,000/- per bigha and for Block-B the market value is fixed at Rs. 1,26,840/- per bigha. On this, enhancement @ 12% p.a. is granted.

Since we have revised the market value in respect of the aforesaid Award at Rs. 2,35,815/- for Block-a and Rs. 1,90,156/- for Block-B, further enhancement has to be given on these rates for the period from 17.11.1995 to 17.12.2002. However, at the same time, we are of the view that in these cases enhancement @ 12% p.a. should not be given because of the reason that in some of these areas the market value of the land had even gone down. Therefore, taking holistic view of the matter and balancing the upward and downward trends, we are of the opinion that interest of justice would be sub served if enhancement is

granted @ 10% p.a. On this basis, market value for Block-A land is fixed at Rs. 4,02,850/- and for Block-B land it is fixed at Rs. 3,24,850/-. LA. A. Nos. 284, 229, 228, 226, 230, 282, 283, 133, 226, 84, 225, 227, 125, 132, 231, 236, 234, 235, 274, 275, 276 & 286/2007 are decided accordingly.

These appeals are, therefore, partly allowed in the aforesaid terms with proportionate costs. The Appellants/land owners shall also be entitled to usual statutory benefits of solatium and interest etc., as awarded by the learned ADJ. On this basis, the decree shall be prepared.

4. Learned Counsel for the Appellant relying upon the aforesaid judgment in the case of Pratap Singh (supra) contends that since 10% yearly enhancement has been granted with respect to the same village for the period from 1995 to 2002, on a parity of reasoning the Appellant also should be granted the same increase of 10% per year. I agree. In the present appeal, the notification in question is dated 24.8.1999 i.e. before one of the notifications u/s 4 dated 17.12.2002 which was considered in the case of Pratap Singh (supra). If, therefore, a Division Bench of this Court has thought it fit to grant yearly enhancement of 10% till the year 2002 therefore the same enhancement of 10% per annum ought to be granted up to the year 1999 i.e. a year prior to 2002.

5. There is nothing on record as to whether the land of the Appellant falls in Block A or Block B, as per the categorization of the land in village Tikri Kalan. Counsel for the parties agree that the statement of reference made u/s 19 of the Land Acquisition Act, 1894 can be accepted with respect to the categorization of the land. Ordered accordingly.

6. Appeal is therefore accepted granting the Appellant enhancement of compensation by fixing the market value of the land at Rs. 3,01,274/- per bigha with respect to land falling in Block A and Rs. 2,42,900/- per bigha with respect to land falling in category B. The Appellant will also be entitled to other statutory benefits including interest @ 9% from the date of the notification u/s 4 till date of dispossession or the date of the passing of the Award, whichever is earlier. Appellant is also entitled to additional amount of 12% as per Section 23(1A) of the Act. Appellant will also be entitled to solatium @ 30% and interest on solatium in terms of the decision of the Supreme Court in the case of Sunder Vs. Union of India, . The Appellant will not be entitled to interest on the period of delay from the date of the impugned judgment till the filing of the appeal except for the statutory period of 90 days. The Appellant will not be entitled to cost of the appeal being the Court fees paid.

7. With the aforesaid observations, the appeal is disposed of. Decree sheet be prepared.