
(1997) 03 AHC CK 0125
In the Allahabad High Court
Case No : First Appeal No. 16 of 1985

State of U.P.

APPELLANT

Vs

Tulsi and Others

RESPONDENT

Date of Decision : 19-03-1997

Acts Referred:

Land Acquisition Act, 1894 — Section 21

Citation : (1997) 03 AHC CK 0125

Hon'ble Judges : R.K.Mahajan, J

Final Decision : Dismissed

Judgement

R.K. Mahajan, J.

1. This judgment will dispose of all the connected First Appeals i.e. First Appeal No. 17 of 1985 State of U.P v. Rama, First Appeal No. 18 of 1985 State of U.P v. Sukha, First Appeal No. 19 of 1985 State of U.P v. Kanhaiya and First Appeal No. 20 of 1985 State of U.P. v. Ban Singh, filed by the State Government against the award of Shri S.N. Singh, 1st Additional District Judge, Bijnor dated 17/9/1984 by virtue of which the claimants were awarded compensation for an area of 3.81 acres of land calculated at the rate of Rs. 1,18,48,34 per acre, as they arise out of notification under Section 4 of the Land Acquisition Act dated 4/11/1979 and the purpose of the acquisition was also same. Besides the amount of award the claimants were also awarded solatium at the rate of 15% on the total amount of compensation awarded to them and it was further ordered that after deducting the amount already received by the claimants enhanced amount be paid or else they will be entitled to interest at the rate of 9% per annum.

2. Feeling aggrieved the State Government filed appeal challenging the award on the ground that Special Land Acquisition Officer's determination at the rate of Rs. 4,694.80 per acre was correct market value, the awarded amount is excessive and the rate of interest has been granted against the provisions of Section 28 of the Land Acquisition Act (hereinafter referred to as the Act).

3. Few dates are relevant for the purpose of deciding this case. The land measuring 3.81 acres was acquired by the State Government for the construction of efflux bands and the description of the plot? has been mentioned in the award. Notification under Section 4 of the Act was made on 4101979 and the award was passed by the Special Land Acquisition Officer on 1961981 granting the market value @ Rs. 4,694.84 paise per acre relying upon exemplar sale deed dated 31121977 mentioned at Serial No. 8.

4. Feeling aggrieved the reference was made to the District Judge under Section 18 of the Act and the District Judge enhanced the amount of compensation to Rs. 11,848.34 paise per acre and also allowed 9% interest. This is how the State has come into this First Appeal challenging the award.

5. Learned Standing Counsel for the State has submitted that the award is on excessive side and the interest has been wrongly granted. He supported the award of Special Land Acquisition Officer.

6. Learned Counsel for the respondent submitted that the District Judge after appreciating other saledeeds which took place in 1977 and 1978 has fixed price correctly at the above rate. He further submitted that the District Judge was of the view that Special Land Acquisition Officer should not have ignored the sale deed dated 1791977 and 151978 which were in close proximity of the land acquired and was of the same quality and the rate per acre was Rs. 11,848.34 paise in respect of saledeed dated 1791977 executed by Tulsi and Bishana and area was 0.844 acre of land situate in village Barkala. He further submitted that there is rise in price and the ignoring the two sale deeds by Special Land Acquisition Officer dated 151978 and 1791977 was illegal in ascertaining the price as they were prior to the notification and they were not fictitious.

7. Learned Standing Counsel has rebutted the arguments of Shri Anil Sharma, Shashi Nandan that now these sales were done out of sheer competition and just to increase the prices of land.

8. After hearing the learned Counsel for the parties I am of the view that there is no infirmity in the judgment of the Additional District Judge on the following reasonings.

9. Firstly, the exemplars which the Additional District Judge has relied upon have (sic) not been shown to be bona fide transaction. The land sold in the saledeed were of same quality and is in close proximity. Learned Additional District Judge has relied upon as mentioned in the submission, saledeeds dated 1791977 and 151978. The rate of which comes to Rs. 11,848.34 paise per acre. The argument of learned Standing Counsel cannot be accepted that these sales were made out of the sheer competition and cannot be accepted as the sale was not by willing seller and willing purchaser at the relevant date and the quality of the land was not of same nature. The Additional District Judge has also relied upon the evidence in some other references regarding the market price which comes @ Rs. 14,000/ per acre.

10. In my considered view after weighing the submissions of learned Counsel for the parties the price fixed by the Additional District Judge is adequate compensation and he has taken exemplar of prior date to show the rising trend in prices and the finding given by him cannot be called unreasonable and unfair at all and I find no reason to interfere in the award.

11. Learned Standing Counsel has argued that the interest is excessive. Since the amount has been increased by the District Judge by the impugned award dated 17/9/1984 and the award was covered under Section 28 of the Act read with Section 30 of Land Acquisition (Amendment) Act, 1984, the legislature has protected the pending award from 30/4/1982 to the enforcement of the Act i.e. 24/9/1984 and any award made thereafter. The contention of the learned Standing Counsel is rejected. (Kindly see (1989) 2 S.C.C. 754 Union of India and another v. Raghubir Singh and (1995) 3 S.C.C. 74, S.A. Jain College Trust and Managing Society v. State of Haryana and another.

12. As a result of the discussion and reasons recorded above I dismiss this appeal and all the connected First Appeals i.e. First Appeal No. 17 of 1985 State of U.P. v. Rama, First Appeal No. 18 of 1985 State of U.P. v. Sukha, First Appeal No. 19 of 1985 State of U.P. v. Kanhaiya and First Appeal No. 20 of 1985 State of U.P. v. Hari Singh filed by the State of U.P. and upheld the judgment of the 1st Additional District Judge, Bijnor, dated 17/9/1984. No order as to costs. Appeals dismissed.