

(2009) 07 DEL CK 0245

In the Delhi High Court

Case No : Regular First Appeal No. 736 of 1999

Surat Singh thr. L.Rs.

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 14-07-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2), 28, 4, 54

Citation : (2009) 07 DEL CK 0245

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Devinder Singh, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision : Allowed

Judgement

P.K. Bhasin, J.—This appeal has been preferred u/s 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act") seeking further enhancement in the amount of compensation payable to the appellants for acquisition of the land situated at village Sahupur.

2. Appellants' land situated at village Sahupur was acquired for planned development of Delhi through notification issued u/s 4 of the Act on 27.1.1984. Similar lands situated at villages Palam, Toganpur, Amber-Hai, Matiala, Lohar Heri, Shahbad Mohd. Pur, Bagrola and Bharthal were also acquired through the same notification for the same public purpose and award No. 17/86-87 was passed by the Land Acquisition Collector awarding compensation @ Rs. 13,000/-, Rs. 11,000/- and Rs. 6,000/- per bigha for land comprised in categories A, B and C respectively. On being approached by the landowners for enhancement of the compensation the Court of Additional District Judge judgment dated 02-09-99 enhanced the compensation in respect of the land in question to Rs. 36,400/- per bigha plus solatium @ 30% on the market value of the acquired land as provided u/s 23(2) of the Act as also an additional amount u/s 23(1A) of the Act @ 12% p.a. on the market value of the land. Interest was also awarded @ 9% p.a. from the date of taking over of the possession of the acquired land for

a period of one year and thereafter in case of non-payment within one year @ 15% p.a. till actual payment of the compensation. A batch of appeals were then filed by different landowners of village Sahupur in this Court and the same were disposed of by a common judgment delivered on 23.12.99 in Puran Singh and Ors. v. Union of India R.F.A. No. 280/92 and the market value of the land situated in village Sahupur, acquired through notification dated 27.1.1984 was determined at Rs. 47,224/- per bigha.

3. It appears that the present appellants had not filed their appeal alongwith other landowners and so the same could not be decided as a part of the batch of appeals disposed of vide common judgment in Puran Singh's case (supra). Since there is no distinguishing feature brought to my notice in this case by the learned Counsel for the Union of India to show that the appellants' property was in any manner inferior to the one which was subject matter in Puran Singh's case (supra) or that the appellants herein should be treated differently in the matter of payment of compensation the appellants are also entitled to get compensation @ Rs. 47,224/- per bigha which was claimed by them in this appeal also.

4. Learned Counsel for the appellants had while praying for awarding the compensation to the appellants at the same rate at which the land owners in Puran Singh's case (supra) were awarded by this Court also brought to my notice the Constitution Bench judgment of the Hon'ble Supreme Court in Sunder Vs. Union of India, in support of his claim for interest on the solatium amount. It was submitted by the learned Counsel from both sides that this benefit of interest on the amount of solatium was not being earlier granted to the land owners in view of the earlier decision of the Supreme Court in Prem Nath Kapur and Another Vs. National Fertilizers Corpn. of India Ltd. and Others, which judgment, however, has since been over-ruled by the Constitution Bench judgment in Sunder's case (supra) which was decided on 19/09/01.

5. I accordingly allow this appeal with proportionate costs holding the appellants entitled to get compensation @ Rs. 47,224 per bigha. In addition, the appellants will get an additional amount u/s 23(1A). They shall also be entitled to solatium u/s 23(2) of the Act on the enhanced compensation amount as also interest thereon as per Section 28 of the Act.