

(1991) 04 DEL CK 0061

In the Delhi High Court

Case No : Regular First Appeal No. 701 of 1970

Swallehin

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 22-04-1991

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : (1991) 45 DLT 234

Hon'ble Judges : Sunanda Bhandare, J;Chander Mohan Nayar, J

Bench : Division Bench

Advocate : R.L. Kohli, for the Appellant;

Judgement

Sunanda Bhandare, J.

(1) This Regular First Appeal is directed against the judgment of the Additional District Judge, Delhi whereby the market value of the land in question situated in Village Wazirpur was fixed at Rs. 2000.00 per bigha. The Additional District Judge also apportioned the share of the persons who were holding occupancy rights and the share of the owners having ownership right in the ratio of 60% and 40% per bigha i.e. ..Rs. 1200.00 per bigha towards occupancy rights and Rs. 800.00 per bigha towards ownership rights.

(2) Learned Counsel for the petitioner gives up respondents 3 to 59. Learned Counsel for the petitioner states that though the petitioner has challenged the order of the Additional District Judge on both the points regarding enhancement as well as apportionment he does not challenge the question of apportionment and restricts the appeal to the question of enhancement of compensation on the basis of enhanced market price. Learned Counsel has relied on a judgment of this Court in Rfa 511 of 1978 (Tulsi Ram v. Union of India) decided on 6/09/1984 in support of his contention that in respect of the same village but for an earlier notification, this Court has awarded compensation in the following manner:

1. Bag Nehri Land Rs. 6200.00 per bigha 2. Banjar Qadim and Jadid land near

Sawan Park Colony Rs. 6200.00 per bigha 3. 3 Bighas and 3Biswas of Khasrano. 638 Rs. 6500.00per bigha(as was assessed by the learned Addl.District Judge) 4. 3 Bighas and 10Biswas of Kbasrano. 638 Rs. 6200.00 per bigha 5. Gher Mumkin Channel Rs. 4500.00 per bigha

(3) Learned Counsel further submits that in view of the latest pronouncements on the question of dividing the village into various blocks, uniform compensation in respect of all the Blocks in the same village is to be given i.e. ..Rs. 6500.00 per bigha. Learned Counsel submitted that the notification u/s 4 of the Land Acquisition Act in respect of Tulsi Ram's case (supra)was issued on 13.11.1959 whereas the notification issued in respect of the land in dispute was issued on 26.10.1961. Thus, the appellants are entitled to get higher rate of compensation than the one awarded in Tulsi Ram's case (supra).

(4) No one is present for Union of India to oppose the prayer of the appellant .

(5) We find that in Tulsi Ram's case this Court has fixed market value at Rs. 6500.00 per bigha in respect of the one block in respect of the land in the same village. Thus, the market value of the land fixed by the Additional District Judge at Rs. 2000.00 per bigha cannot be considered to be correct market value .There is great force in the contention of the learned Counsel for the appellant that since the notification in respect of the landing question was issued after 1 year and 11 months, the appellant is entitled to get higher rate of compensation than the one awarded in Tulsi Ram's case(supra). Undoubtedly, there is an upward trend in the price of land and there is nothing on record to show that at any stage, it had stagnated or fallen. Thus, the market value of the land in dispute must be assessed at a higher rate than in Tulsi Ram's case. Considering that the land in dispute in the present case was acquired about I year and 11 months after the notification in Tulsi Ram's case was issued we assess the land of the appellant at Rs. 8450.00 per bigha.

(6) The appellant will be entitled to compensation at the said rate in the ratio fixed by the Additional District Judge. The appellant has claimed compensation at Rs. 5500.00 per bigha in the appeal. Thus, the appellant would be entitled to compensation at the rate fixed by us only if he files amended grounds of appeal. Let the amended grounds of appeal be filed within 3months from today. Learned Counsel however states that the appellant has already filed Court fee for a higher claim. The Registry is directed to compute the Court fee payable by the appellant and if the appellant is found to be liable to pay any further Court fee, the appellant will be entitled to compensation at the higher rate fixed by us only on making good the deficiency in Court fee. In addition to the market value assessed at Rs. 8450.00 per bigha, the appellant will be entitled to 15% solarium and interest @ 6% per annum from the date of dispossession till the date of payment of enhanced compensation .The appellant will also be entitled to costs.