
(2009) 09 AHC CK 0028
In the Allahabad High Court

The State of U.P. and Another

APPELLANT

Vs

Tara Chand and Others

RESPONDENT

Date of Decision : 10-09-2009

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 4, 6

Citation : (2009) 09 AHC CK 0028

Hon'ble Judges : Rakesh Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Sharma, J.—RE: First Appeal Nos. 826, 831, 833 and 834 of 1993

2. Since similar controversy is involved in these four appeals, these Appeals are being decided by this one and common judgment.

3. Heard learned Standing Counsel appearing for the appellant-State of U.P. and Sarvasri Manish Goyal and Madan Mohan for the respondent-land owners.

4. Through these Appeals, the appellants State of U.P. etc. have assailed the judgment and decree dated 3.8.1991, passed by the IX Additional District Judge, Ghaziabad while answering 14 references made to it under the Land Acquisition Act (hereinafter referred to as the "Act"). The reference court, after considering the materials on record, by the impugned judgment has enhanced the compensation by which the compensation has been fixed at the rate of Rs. 50/= per Sq. Yard in respect of lands situate in Sector 22 of New Okhla Industrial Authority (in short "NOIDA") area bordering Delhi.

5. It emerges from the record that in furtherance of the implementation of establishing of Housing Scheme and other Schemes by the NOIDA, a large chunk of the land was acquired in several villages of Tehsil Dadri, Ghaziabad. The land in dispute falls in village Mamoori in the District of Ghaziabad. Notification u/s 4 of the Act was issued on 29.6.1987. Notification was published in various News

Papers. It was followed by a notification u/s 6 of the Act issued on 3.11.1987. The claimant-land owners lodged a claim for compensation at the rate of Rs. 100/= per Sq. Yard before the Acquiring Authority. The award u/s 11 of the Act was rendered on 5th July, 1989. Further, the possession of the land was taken on 28.4.1988.

6. Being aggrieved of the award, references were made u/s 18 of the Act by the land owners on 31st July, 1989. As far as the status and quality of the land is concerned, the Special Land Acquisition Officer has classified the land in dispute in three categories, that is, Jungle Avval Aavi and Jungle Doyam Khaki. In substance, the land in dispute was found by the Special Land Acquisition Officer as fertile and irrigated land growing three crops.

7. The reference court had taken into account various relevant factors, while enhancing the compensation. It has taken note of the fact that the land was located at a distance of about two Miles from the developed colonies of the Delhi. It was just six Kilometers from the main Delhi city. The land was situated on the main road connecting Sector 22 to Sector 50. It was also brought to the notice of the reference court that for the purposes of assessing the stamp duty the valuation of the land has been fixed at the circle rate from Rs. 60 to Rs. 150/= per Sq. Yard.

8. The reference court had taken into account various factors in assessing the market value of the land. Several exemplar sale deeds were produced before the court. The reference court had placed reliance on two sale deeds which were executed on 10.7.1987 and 20.7.1987 (Paper No. 10-GA and 11 GA). The reference court had declined to rely on other sale deeds, which were executed after the notification issued u/s 4 of the Act, that is, after 8th August, 1987. The reference court had also placed reliance on an award rendered by the Collector on 30.6.1990 u/s 11 of the Act.

9. Upon this learned Standing Counsel has responded that there is no mention in the judgment or in the pleadings whether this award, dated 30.6.1990 is still in vogue or not, whether any appeal was preferred by the State and there is nothing to show whether it is final or binding.

10. The reference court has taken into account the nature, status, quality and location of the land. The lands acquired were found very close to Delhi City. The market value of the adjoining lands were assessed above Rs. 50/= per Sq. Yard.

11. Learned Standing Counsel has assailed the judgment on various grounds taken in the memo of Appeal that the amount of compensation is was on higher side. The Special Land Acquisition Officer had applied belting system and the market value assessed by him was adequate and reasonable. The reference court has not taken into account the market value of the other adjoining lands. It has allowed compensation on much higher market value for the land in dispute. The court had to take into account quality and status of the land vis-a-vis market value of other adjoining plots. The evidence adduced by the appellants was not

properly considered. Lastly he placed reliance on a judgment of the Hon''ble Apex Court reported in 2009 (2) AWC 1617 (SC) Revenue Divisional Officer-cum-LAO v. Shaik Azam Saheb etc. etc.

12. Sri Manish Goyal, learned Counsel for the appellant, while placing reliance on a judgment rendered by the Hon''ble Apex Court, has submitted that on the basis of a notification issued u/s 4 of the Act on 14th August, 1987 for acquiring the land in the Meerut District, which is far away from Delhi, the Hon''ble Apex Court has approved the compensation to the land owners for the similar land in the District of Meerut from Rs. 85/= per Sq. Yard to Rs. 175/= per Sq. Yard whereas the NOIDA area is much closer to southern Delhi and has been developing rapidly by transforming into a Model Town having all the urban and modern facilities and as such the enhanced Compensation awarded by the reference court is justified.

13. Considered the rival submissions by the learned Counsel for the parties and perused the materials available on record.

14. The reference court, while enhancing the compensation, has taken into account, nature, status, quality and location of the land. It was found by the reference court that the lands acquired are close to Delhi city. The market value of the adjoining lands were assessed above Rs. 50/= per Sq. Yard, This Court has scrutinised the impugned judgment of the reference court in the light of the judgment of the Hon''ble Apex Court, as reported in 2009 (2) AWC 1617 (SC) (supra), applying the principles and parameters laid down by the aforesaid judgment of the Hon''ble Apex Court. The reference court had taken into account plus and minus factors also and applied other tests for evaluating the market value of the land acquired and compensation payable to the land owners. The Court had taken into account the enhancing value of the lands in the NOIDA area. It was also brought to the notice of the reference Court that the private colonisers and NOIDA Authority are selling the land on a much higher inflated price. Thus, this Court finds Rs. 50/= per Sq. Yard a reasonable market value and compensation for the land acquired.

15. In view of the discussions made above, this Court finds no illegality or infirmity in the judgment rendered by the reference Court. The Appeals are accordingly dismissed. 16. Consequences shall follow.

Order Date : 10.9.2009

bgs/

Hon''ble Rakesh Sharma, J.

RE: Civil Misc. Application No. 19758 of 2007

16. No one has put in appearance to press this Application seeking transposition.

17. Accordingly, the Application is rejected.