
(1991) 10 DEL CK 0049

In the Delhi High Court

Case No : Civil Miscellaneous Appeal No's. 35, 76 and 1059 of 1991

Union of India

APPELLANT

Vs

Jhutter Singh

RESPONDENT

Date of Decision : 03-10-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 22
Land Acquisition Act, 1894 — Section 4

Citation : (1992) 46 DLT 364

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

Bench : Division Bench

Advocate : Sashi Kiran, N.S. Vashisth and Om Prakash, for the Appellant;

Judgement

Sunanda Bhandare, J.

(1) The respondent has now filed the cross- objections. The appellant has not filed any reply to the cross-objections. It is, Therefore, presumed that the respondent has no objection if the cross-objections are taken on record. In any event, though notice regarding filing of the appeal was served on the respondent on 27-9-1976, no notice of the date of hearing of the appeal was served on the respondent till date. Thus, since the notice was not in compliance with the provisions of Order 41 Rule 22 of the Code of Civil Procedure, the time for filing the cross-objections has not yet begun. A similar view was taken by this Court in RFA70f1977 decided on 1st October 1985 (Union of India v. Pinda) and Rfa 31st of 1974 decided on 11th April 1991 Shri Kesho Doss v. Union of India. Let the cross-objections be taken on record. Rfa 35/76 & Cm 1059191

(2) The market value for the land in Village Mandoli Fazalpur came up for consideration before this Court in Kesho Dass's case (supra). The land in Kesho Dass's case was acquired vide notification u/s 4 of the Land Acquisition Act (hereinafter referred to as the Act) published on 13-11-1959 In the present case also the notification was issued of the same date. In Kesho Dass's case (supra) the market value of the land in Village Mandoli Fazalpur was fixed at Rs. 8064.00

per bigha.

(3) In the circumstances, the appeal is without merit and the same is dismissed.

(4) The respondent has filed the cross-objections and has claimed compensation on the basis of market value @ 8064.00 per bigha. Since in similar case In respect of the land in the same Village, the market value is fixed at Rs. 8064.00 per bigha, the cross objector is also entitled to get compensation at the same rate. The cross-objections are allowed. The respondent cross-objector will be paid compensation at the market rate of Rs. 8064.00 per bigha. The respondent will also be entitled to 15% solarium and interest @ 6% per annum u/s 28 of the Act.

(5) As there is a difference of more than three years between the notification u/s 4 (13.11.59) and declaration u/s 6(12-7-1966) the cross-objector shall also be entitled to interest @ 6% per annum of the market value of the land u/s 4(3) of the Land Acquisition (Amendment & Validation) Act 1967 provided there is no overlapping of payment of interest u/s 28 of the Act and Section 4(3) of the Land Acquisition (Amendment & Validation Act) 1967. The cross-objector shall also be entitled to costs. The bank guarantee furnished by the cross-objector be discharged. Petition discharged.