

(1982) 01 DEL CK 0018

In the Delhi High Court

Case No : Leave Petition Application No. 156 of 1973

Union of India

APPELLANT

Vs

Nand Kishore and Others

RESPONDENT

Date of Decision : 07-01-1982

Acts Referred:

Citation : AIR 1982 Delhi 452 : (1982) 21 DLT 214

Hon'ble Judges : Leila Seth, J;A.B. Rohtagi, J

Bench : Division Bench

Advocate : R.K. Anand, S.L. Bhatia and P.K. Seth, for the Appellant;

Judgement

Avadh Behari Rohatgi, J.

(1) These are eight appeals from the order of the Additional District Judge dated December 4, 1972.

(2) The lands of the respondents-owners were acquired by the Government. Their lands were situated in Sadhora Khurd. Notification u/s 4 of the Land Acquisition Act (the Act) was issued on November 13, 1959. The declaration u/s 6 of the Act was issued on July 19, 1965. The Land Acquisition Collector made the award on August 11, 1967 (Award No. 1984). For the lands in question the Collector awarded Rs. 6,000.00 per bigha. On a reference to the Additional District Judge u/s 18 of the Act the compensation was raised from Rs. 6000.00 per bigha to Rs. 8500.00 per bigha. This, in his opinion, reflected a just and fair market value of the land comprised in Khasra Nos. 16 and 17.

(3) Aggrieved by this order, the Union of India brought appeals to this Court. R.N. Aggarwal, J. by order dated July 10, 1973 dismissed these appeals in limine by a short order. He was of the view that there was no reason to interfere with the market value fixed by the Additional District Judge. From his order these appeals have been brought under clause 10 of the Letters Patent.

(4) In support of the appeals we have heard Mr. R.K. Anand on behalf of the

Union of India, the only point that he has made before us is that the learned Additional District Judge has not taken into consideration a judgment of Shri Hans Raj, Additional District Judge in the case of Ram Pershad v. Union of India (LAG No. 142 of 1964 decided on February 1, 1965) (R 3). By this judgment he had fixed the value of the garden land at Rs, 7,500.00 per bigha in this village. Counsel says that the learned Additional District Judge ought to have considered this judgment and should have fixed the market value of the acquired land at Rs. 7500.00 instead of Rs. 8500.00 per bigha.

(5) This court decided a case of land acquired in this very village of Sadhora Khurd. This was Sheel Chandra and Anr. v. Union of India and Anr. Rfa No. 93 of 1973 decided by one of us (Avadh Behari Rohatgi, J.) on March 18, 1980. That was also a case of this very Award No. 1984. Section 4 Notification was issued on the same date, namely, November, 13, 1959. In that case the learned Additional District Judge had fixed the market value of the land at Rs. 10,700.00. His judgment was Upheld and the owners' appeal was dismissed. In that case, as in the present case, two judgments of Shri Hans Raj, Additional District Judge, were referred to. These were Tara Chand v. Union of India (LAG No. 144 of 1964 and Virbnder Singh v. Union of India (LAG No. 133 of 1964). These two judgments were accepted as a guide to the value of the land. In the present case Mr J.D. Jain Additional District Judge (as he then was) has also referred to these two decisions and has accepted them as a guide to the value of the land. In Sheel Chandra's case also these two decisions were accepted as the best piece of evidence to determine the value of the land at the relevant time. The reason is that in one of these the sale was made on October 28, 1959, just 15 days before the Notification. The transaction was accepted as a genuine one. The sale was at the rate of Rs. 10,650.00 per bigha. This was considered to be an instance which afforded the best guidance for determining the value of the land. On this basis in Sheel Chandra's case (supra) the market value was determined at Rs. 10,700.00 per bigha.

(6) These two cases of Virender Singh and Tara Chand were also referred to with approval in Bhullan Singh v. Union of India, Rfa 152 of 1967 decided on October 9, 1978 by a division Bench of this Court (Prakash Narain and Leila Seth JJ). In our opinion, the learned Additional District Judge was right in accepting Virender Singh and Tara Chand's cases as the best guide to determine the value of the land. We see no reason to follow Ram Pershad's case which determined the market price of the land at much less.

(7) In Lpa No. 158 of 1973 one other point was raised. The structure was valued by the Collector at much less.

(8) In Lpa No. 158 of 1973 one other point was raised. The structure was valued by the Collector at Rs. 3466.00. The value was raised to Rs. 3900.00. The valuation, we think, is just and does not call for any interference.

(9) For these reasons the appeals of the Union of India, are dismissed. The

parties are, however, left to bear their own costs.