

(1995) 07 DEL CK 0005

In the Delhi High Court

Case No : Regular First Appeal No. 310 of 1975 with Cross Objection No. 712 of 1992

Union of India

APPELLANT

Vs

Prabhu Dayal Bhargava

RESPONDENT

Date of Decision : 18-07-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1995) 35 DRJ 69

Hon'ble Judges : Dr. M.K. Sharma, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : Sudha Srivastava and A.K. Sikri, for the Appellant;

Judgement

M.K. Sharma, J.

(1) This is an appeal filed by the Union of India u/s 54 of the Land Acquisition Act, 1894 (hereinafter called the Act) against the enhancement of compensation payable to the claimant/respondent under the award dated 8.7.1975 in Lac No.183/68-527/1972 passed by the First Additional District Judge, Delhi, for his land at Village Bahapur, Delhi, acquired for public purposes under notification dated 13.11.1959 u/s 4 of the Land Acquisition Act.

(2) By the aforesaid notification issued u/s 4 of the Land Acquisition Act, total land measuring 145 Bighas 3 bids was was acquired and the declaration u/s 6 of the Act was made on 24.3.1962. The Land Acquisition Collector divided the entire land into two blocks and awarded the market value of Rs.3,500.00 and Rs.2,500.00 per bigha to the land placed in the said two blocks. On reference the Additional District Judge through the impugned award enhanced the compensation amount and determined the same at Rs.6,415.00 per bigha, thereby enhancing the market value @ Rs.2,915.00 per bigha so far as the land of the claimant/respondent is concerned.

(3) Being aggrieved by the aforesaid enhancement the Union of India has filed

the present appeal in this court. The claimant/respondent has filed the cross-objections in the present appeal claiming compensation for the acquisition of his land at Rs.20,000.00 per bigha.

(4) Our attention has been drawn to a decision of this court in R.F.A. 113/1980 in the case of Pandit Sis Ram (deceased through LRS) & another Vs. Union of India, disposed of on 27.10.1994 wherein this court in respect of land situated in Village Bahapur and acquired under notification dated 13.11.1959 u/s 4 of the Act determined compensation for the said land at Rs.19,000.00 per bigha as fair and reasonable market value. On perusal of the said judgment we find that while fixing the market value of the land involved in the said case this court followed two earlier decisions of this court in Rfa 408/1977, Union of India Vs. Amin Chand & Others; decided on 19.7.1979 and also in R.F.A. 463/1979 Chhajju Vs. Union of India; decided on 3.12.1979. Relying on the aforesaid decisions the learned counsel for the respondent submitted that since for similar lands situated in Village Bahapur and acquired under the same notification u/s 4 of the Act this court enhanced the compensation value and fixed it at Rs.19,000.00 per bigha, the respondent/claimant is entitled to claim atleast the same amount per bigha for the present similar land. Under the aforesaid circumstances, according to him, the appeal filed by the Union of India is liable to be rejected and the compensation for the land of the respondent should be determined atleast at Rs.19,000.00 per bigha.

(5) We have carefully perused the judgment and order passed in the case of Pandit Sis Ram (Supra) and also in Chhajju's case (supra). In Chhajju's case the Land Acquisition Collector divided the lands into 4 blocks namely - Blocks 1,2,3 & 4 and assessed the land acquisition compensation at Rs.6,000.00 , Rs.4,500.00 , Rs.3,500.00 and Rs. 2,500.00 per bigha. However, in the appeal filed before this court by Chhajju, this court determined the land acquisition compensation and assessed at Rs.19,000.00 and Rs.16,000.00 per bigha respectively, his land being categorised under blocks 1 & 2 respectively. In Pt. Sis Ram's case (supra.) this court following the case of Chhajju (supra) awarded Rs.19,000.00 as the market value of the land of the claimants which was the compensation assessed by this court in Chhajju's case for lands situated within block 1.

(6) As and when we take into consideration the ratio of the aforesaid decision in Chhajju's case it becomes apparent to us that so far as the land involved in the present case is concerned the just and fair compensation for the said land would be Rs.14,000.00 and Rs.12,000.00 respectively for block 3 and block 4 lands when the difference and criteria followed in Chhajju's case is taken note of. On consideration of the ratio of the cases of Pt. Sis Ram (supra) and Chhajju's (supra) and on the evidence on record of the present case in our opinion the said judgments and orders given by this court in respect of Bahapur could be accepted as a relevant and reliable material to afford a basis for determining the compensation for the land involved in the present acquisition proceedings. In The State of Madras Vs. A.M. Nanjan and Another, , the Supreme Court has held that

if the land involved in the award is comparable land in reasonable proximity of the land, the rates found would be a reliable material. On analysing the evidence adduced in the present case, and following the ratio of the decisions in the cases of Chhajju (supra) and Pt. Sis Ram (supra), we hold that the market value of the land acquired in the present case should be assessed at Rs.14,000.00 and Rs.12,000.00 per bigha respectively for the lands categorised by the Land Acquisition Collector at Rs.3,500.00 and Rs.2,500.00 per bigha. Accordingly, we fix the market value of the land in question at Rs.14,000.00 per bigha for the land categorised and compensation assessed at Rs.3,500.00 per bigha by the Land Acquisition Collector and at Rs.12,000.00 per bigha for the land assessed at Rs.2,500.00 per bigha by the Collector.

(7) In the result, the appeal filed by the appellant/Union of India is dismissed. On the cross-objections filed by the respondent/claimant we order that the respondent/claimant shall be entitled to market value of Rs.14,000 .00 and Rs.12,000.00 per bigha respectively for his lands acquired as held herein before. As the respondent/claimant had 10/16th share on account of being occupancy tenant he would be entitled to compensation to that extent only. Over and above, the respondent/claimant shall also be entitled to a solarium @15% of the market value on the enhanced compensation. We also direct that the respondent/claimant shall be entitled to simple interest @ 6% per annum on the enhanced compensation from the date of possession of the land to the date of payment in court, but after excluding a period of one year for which he was guilty of making delay without sufficient cause as ordered by the Additional District Judge, Delhi. The respondent/ claimant shall also be entitled to costs limited to the Court fee.