

(2002) 07 DEL CK 0085

In the Delhi High Court

Case No : Regular First Appeal No. 435 of 1988

Union of India (UOI)

APPELLANT

Vs

Hukam Chand

RESPONDENT

Date of Decision : 25-07-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 25(1A), 4, 6

Citation : (2003) 102 DLT 162

Hon'ble Judges : Devinder Gupta, J; B.N. Chaturvedi, J

Bench : Division Bench

Advocate : Jhum Jhum Sarkar, for the Appellant; Om Prakash, for the Respondent

Final Decision : Partly Allowed

Judgement

RFA No. 435/88 & CM No. 1428/88 (X-objections):

1. Subject matter of the appeal is the land situate in Village Yusuf Sarai, Delhi, which was acquired for public purpose by virtue of notification issued u/s 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act") on 24.5.1961. Declaration u/s 6 of the Act was made on 27.7.1961. The Collector, Land Acquisition made his Award No. 1259 on 31.1.1962, offering compensation to the claimants @ Rs. 3,600/- per bigha. Feeling dissatisfied, reference u/s 18 of the Act for determination of the amount of compensation was sought by the claimant-respondent. The Reference Court by the impugned award, dated 20.8.1987 answered the reference as LAC No. 157/80 and thereby determined the market value payable to the claimant/respondent @ Rs. 16,000/-per Bigha. Feeling aggrieved, this appeal u/s 54 of the Act has been preferred by the Union of India seeking reduction in the amount of compensation and also questioning the award of additional amount u/s 23(1-A) of the Act and interest and solarium as per the Land Acquisition (Amendment) Act, 1984. The claimant-respondent has also filed cross-objections seeking further enhancement in the amount of compensation.

2. We have heard learned Counsel for the parties and gone through the records.
3. As per the evidence on record, the acquired land was situate by the side of main Mehrauli Road within the revenue estate of Yusuf Sarai and as on the date of notification issued u/s 4 of the Act, developed colonies like Green Park and Hauz Khas were in existence. Green Park colony was just opposite the Mehrauli Road and Haviz Khas colony was in the same vicinity within 100 yards towards the south. Acquired land was close to the Yusuf Sarai Market and in between the acquired land and the main road, there was D.A.V. Higher Secondary School. On behalf of claimants/respondents, enhancement has been sought on the ground that revenue estate of Yusuf Sarai is surrounded by revenue estates Masjid Moth, Kotla Mubarakpur and Kharera. Many posh colonies like New Delhi South Extension Part-II, Village Green Park, Hauz Khas colonies, All India Institute of Medical Sciences, Safdarjung Hospital etc. were already in existence and in the close proximity of the acquired land and the same was by the side of Main Delhi-Mehrauli Road. As on the date of notification, u/s 4 of the Act all civic amenities like electricity, road/transport, sewage, telephone and schools etc. were available to the acquired land. Revenue estate of Yusuf Sarai came within the limits of New Delhi Municipal Committee in the year 1941. The acquired land as such, was fit for being used for being developed as a residential colony. There was already a great pressure for vacant lands in all localities of Delhi more particularly since in the year 1959, when general notification had been issued for acquiring considerable land in various revenue estates for planned development of Delhi.
4. Reliance has also been placed on behalf Of claimants/respondents on two decisions of this Court, wherein market value of land situate in Masjid Moth, Kotla Mubarakpur and Kharera has been determined. In RFA No. 212/72, Dharampal and Others Vs. Union of India (UOI), market value of land situate in village Masjid Moth, acquired through the same notification dated 24.5.1961 was fixed @ Rs. 35 /- per sq. yard. Reference Court in that case had assessed the market value at Rs. 10,000/- per bigha whereas the Collector had offered compensation @ Rs. 3,000/- per bigha.
5. In RFA No. 425/70, Union of India v. Babu Lal and Ors. decided on 4.3.1996, another Division Bench of this Court assessed fair market value of land situate in Kotla Mubarakpur and acquired through the same notification issued u/s 4 of the Act on 24.5.1961 @ Rs. 35,000/- per bigha. The Reference Court in the said case had assessed market value at Rs. 11,000/- per bigha whereas the Collector, Land Acquisition had offered compensation @ Rs. 3,000/- per bigha.
6. For village Kharera also, another Division Bench of this Court in RFA No. 305 /1979, Ratan Lal Gupta and Ors. v. Union of India and Ors. decided on 24.8.1984 had assessed the market value at Rs. 34,000/- per bigha for such land which was acquired through notification issued u/s 4 of the Act on 1.7.1961. The Collector had in that case offered compensation @ Rs. 4,000/- per bigha while the Reference Court had assessed the market rate at Rs. 17,000/- per bigha.

7. Reference has also been made to the decision in RFA No. 479/69, Gurmukh Singh Chawla and Ors. v. Union of India decided on 28.5.1994. In the said appeal which a Division Bench of this Court proceeded to determine fair market value of land situate in village Masjid Moth @ Rs. 35/- per sq. yard for such lands which did not abut the main road and @ Rs. 40/- per sq. yard for the land abutting the Ring Road.

8. Learned Counsel for the claimant/respondent thus vehemently contended that as the acquired land situate in village Yusuf Sarai had even according to the Collector, better location than the lands which were subject matter of the four aforementioned decisions, the claimants /respondents deserved to be held entitled to compensation if not more atleast @ Rs. 40,000/- per bigha. Learned Counsel for the appellant has vehemently contended that the compensation has properly been determined and no interference is called for in the market value. Interference otherwise is called for with remaining award.

9. Considering the location, situation and the other advantages, as were available and attached to the acquired land and the slight edge which the acquired land had over and above the lands situate in Village Masjid Moth, Kotla Mubarkpur and Kharera, the Collector, Land Acquisition himself had offered compensation @ Rs. 3,600/- per bigha, whereas for Masjid Moth and Kotla Mubarakpur, compensation was offered @ Rs. 3,000/- per bigha. Notifications under Sections 4 and 6 were also issued on the same date and purpose of acquisition was the same.

10. Compensation for almost similarly situate land was assessed by this Court @ Rs. 35,000/- per bigha. For such land situate in Kotla Mubarakpur and Masjid Moth but in Gurmukh Singh's case, this Court assessed market value of the land abutting the Ring Road @ Rs. 40,000/- per bigha. Acquired land was not abutting the main Mehrauli-Road but was slightly inside and was surrounded by the school complex, Therefore, considering the facts and circumstances, we are of the view that market value deserves to be fixed @ Rs. 37,500/- per bigha since admittedly the land was more valuable and had better location than those cases where market value has been assessed @ Rs. 35,000/- per bigha.

11. Collector, Land Acquisition on 31.1.1962 made his award, which is prior to the introduction of the Land Acquisitions (Amendment) Bill, 1982, Therefore, in view of the decision of Supreme Court in K.S. Paripoornan Vs. State of Kerala and Others, , the Reference Court was not justified in allowing additional amount u/s 23(1-A). To that extent the award of the Reference Court is liable to be interfered with.

12. Consequently, the appeal is partly allowed. Cross-objections are also allowed with proportionate costs. Award of the Reference Court is ordered to be set aside to the extent to which it has allowed additional amount u/s 23(1-A) of the Act. IT is held that claimants/respondents are entitled to compensation @ Rs. 37,500/- per bigha. In addition to the enhanced market value, the claimants are also held

entitled to solarium @ 30% and interest @ 9% p.a. for a period of one year from the date of Collector taking possession and thereafter @ 15% p.a. till the date of payment. Interest will also be paid to the claimants/respondents on solarium in view of the decision of Supreme Court in Sunder Vs. Union of India,