

(2011) 08 DEL CK 0005
In the Delhi High Court
Case No : LAA 1008 of 2008

Union of India (UOI)

APPELLANT

Vs

Jai Chand and Others

RESPONDENT

Date of Decision : 05-08-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18
Land Acquisition Act, 1984 — Section 54

Citation : (2011) 08 DEL CK 0005

Hon'ble Judges : P.K. Bhasin, J

Bench : Single Bench

Advocate : Sanjay Poddar, for the Appellant; Deepak Khosla and Inder Singh for R-1 and R-2, Amit Mehra, for Ajay Verma, for DDA/R-3, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Bhasin, J.—This is an appeal u/s 54 of the Land Acquisition Act, 1984 for setting aside the judgment dated 30-07-2008 given by the learned Additional District Judge in LAC No. 136/1/2008 whereby while giving enhancement in compensation to the Respondents for their acquired land in village Dallupura the Reference Court had awarded interest on the enhanced amount even for the period from the date of dismissal in default of the Reference case till the date of its restoration and the Government is aggrieved only by the grant of interest for that period.

2. The facts which only are relevant for the disposal of this appeal are that at the instance of the Respondents - land owners, the Land Acquisition Collector had made a reference u/s 18 of the Land Acquisition Act, 1894 since they were not satisfied with the compensation fixed by him in respect of their lands which had been acquired. The Government contested the reference and after considering the evidence adduced during the trial the learned Reference Court enhanced the market value of the acquired land. There is no dispute raised by the government in respect of the market value which had been fixed by the Reference Court. The

grievance of the Appellant - Union of India is that on one date of hearing there was no appearance on behalf of the Respondents - claimants before the Reference Court and consequently the reference case was dismissed in default and after many years the Respondents - claimants had sought restoration of their case and it was finally restored.

3. It was submitted by Shri Sanjay Poddar, learned Counsel for the Appellant - Union of India that the learned Reference Court was not justified in granting interest to the Respondents - claimants on the enhanced compensation for the period during which the reference had remained dismissed since that delay cannot be attributed to the Government. On the other hand, learned Counsel for the Respondents - claimants submitted that the learned Reference Court has awarded interest to them even for the afore-said period in dispute after noticing the judgment of the Hon''ble Supreme Court in Khazan Singh Vs. Union of India, wherein it was held by the Supreme Court that a reference made u/s 18 of the Land Acquisition Act cannot be dismissed on account of non-appearance of the claimants. It was also submitted that under similar circumstances in one case reported as "Union of India v. Shaukat Rai" 2009 (X) Apex Decisions (Delhi) 139 I have already dismissed appeal of the Union of India and that judgment has not been challenged by the Union of India.

4. Learned Counsel for the Appellant - Union of India did not dispute the submission of the learned Counsel for the Respondents that my decision in Shaukat Rai's case(supra) has not been challenged by the Government. In the said case I have taken the view that since the Reference Court cannot dismiss a reference under the Land Acquisition Act due to non-appearance of the claimants in view of the above referred judgment of the Hon''ble Supreme Court in Khazan Singh's case, the claimants - land owners cannot be deprived of the interest on the enhanced compensation if be awarded by the Reference Court even for the period from the date of dismissal of the reference in default till the date of its restoration. I have, therefore, no reason to take a different view now.

5. This appeal is accordingly dismissed but without any order as to costs.