
(2011) 08 DEL CK 0086
In the Delhi High Court
Case No : LA APP. No. 73 of 2004

Union of India (UOI)

APPELLANT

Vs

Sheo Nath Thru L.Rs.

RESPONDENT

Date of Decision : 10-08-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 6

Citation : (2011) 08 DEL CK 0086

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

Bench : Single Bench

Advocate : Sanjay Poddar, for the Appellant; Deepak Khosla, for the Respondent

Judgement

P.K. Bhasin, J.—This appeal filed by the Union of India is directed against the judgment of the Reference Court whereby the compensation in respect of the acquired land of the Respondents' predecessors-in-interest in village Wazirabad was enhanced to Rs. 45,000 per bigha from Rs. 4600 per bigha awarded by the Land Acquisition Collector.

2. The learned Reference Court while deciding the Reference u/s 18 made by the Land Acquisition Collector at the instance of the predecessors-in-interest of the Respondents relied upon a judgment in the case of "Nand Ram v. UOI" rendered by another Reference Court on 30/08/88(Ex. A-1) in respect of village Wazirabad arising out of acquisition of some land pursuant to the notification issued on 17th November, 1980 which was subsequent to the issuance of the notifications under Sections 4 and 6 of the Land Acquisition Act in the present case which were issued on the same date i.e. on 1st November, 1978. In the afore-said judgment relied upon by the Reference Court while deciding the Reference arising out of the acquisition proceedings pursuant to the notification dated 17th November, 1980 the Court had fixed the market value of the acquired land in Wazirabad at Rs. 20,000 per bigha. In the present case the Reference Court has quoted the following observations from that judgment dated 30/08/88 in the impugned judgment:

9. Taking note of the factor that Dhirpur was comparatively more urbanized as compared to the land in the instant case, some difference in the market value has to be maintained, in comparison to what has been fixed vide judgments Ex. A-4 and Ex. A-5 which relate to February, 1979 and November 1978 respectively, and, therefore, market value around Rs. 17,000 PB would be fair enough as on 1.11.78.

3. The learned Reference Court had noted in the impugned judgment that the market value of land in village Dhirpur acquired pursuant to a notification which was also issued on 1st November, 1978, on which date notifications for village Wazirabad were also issued, had been determined at Rs. 26,000 per bigha by the Reference Court. The land owners of village Dhirpur had approached this Court for further enhancement in compensation in respect of their acquired lands and this Court in RFA No. 424/1986 decided on 20th July, 1993 had enhanced the market value of the land to Rs. 50,000 per bigha. This Court had fixed the same market value in respect of the land in village Dhirpur which was acquired pursuant to the notification issued on 15th February, 1979 also. The learned Reference Court in the present case accordingly enhanced the market value of the land in respect of village in Wazirabad to Rs. 45,000 per bigha taking into consideration the enhancement given by this Court in respect of the lands in village Dhirpur. This is what was observed by the Reference Court in para No. 18 of the impugned judgment:

18... When the judgments passed by the Ld. ADJ are based on village Dhirpur, there is no reason to ignore the same. However, while applying the ratio/difference between the two villages i.e. to say whereas the value of land situated in village Dhirpur was fixed at Rs. 18,500 to Rs. 28,960 the value of the land situated at village Wazirabad was fixed at Rs. 17,000, the compensation of land in question would come to Rs. 45,000, approximately, as against Rs. 50,000 fixed for village Dhirpur. I, therefore, enhance the compensation to Rs. 45,000 per bigha and decide the issues, accordingly.

4. Feeling aggrieved by the enhancement in compensation made by the Reference Court, the Union of India filed the present appeal. It was contended by Sh. Sanjay Poddar, learned Counsel for the Appellant that the Reference Court was not justified in relying upon the market value of the lands fixed in respect of some other village (Dhirpur) when the Government had placed on record the sale deeds of village Wazirabad itself which were unjustifiably rejected by the Reference Court. Mr. Poddar cited one judgment of a Division Bench of this Court rendered in a batch of appeals against the decision of the Reference Court in respect of village Sahibabad Daulat Pur, out of which the lead case was Laxmi th Narain Bansal v. Union of India, RFA No. 677/94 decided on 7February, 2003. In that judgment it had been held by the Division Bench that parity in compensation cannot be claimed merely on the ground that two villages are adjacent to each other but such parity can always be claimed in case there is material brought on record or circumstances available to show that the lands were similarly situated

as regards topography, location and advantages available.

5. On the other hand, Mr. Deepak Khosla, learned Counsel for the Respondents argued that there was no illegality committed by the Reference Court in giving enhancement to the Respondents taking into consideration the fact that initially market value of the land in village Wazirabad was fixed by the Reference Court relying upon the valuation fixed in respect of village Dhirpur and when this Court enhanced the market value of the land in village Dhirpur the Reference Court was fully justified in giving proportionate increase in the market value in respect of village Wazirabad also taking note of the fact that Wazirabad village was less developed than Dhirpur village .

6. I have gone through the judgment of a Division Bench of this Court in "Gajender Singh v. Union of India" (RFA No. 424/86) decided on 20th July, 1992 whereby the market value of the land in village Dhirpur was fixed at Rs. 50,000 per bigha and which judgment was relied upon by the learned Reference Court in the present case while enhancing the market value of the Respondents' land in village Wazirabad to Rs. 45,000 per bigha. A perusal of this judgment shows that the reason given by the Division Bench for enhancing the market value of the land in village Dhirpur was that that village was near the main Mall Road(Kingsway Camp crossing) and it was also adjoining village Dhaka which, in turn, was adjoining to Model Town, a developed colony. Therefore, this Court had enhanced the market value of the land in village Dhirpur on the basis of material available in that case. No such material was available in the present case which could justify similar enhancement in the market value of the land in village Wazirabad and simply relying upon the afore-said decision in Gajender Singh's case, learned Reference Court was not justified in enhancing the market value of Respondents' land to Rs. 45,000 per bigha.

7. This appeal accordingly succeeds and the impugned judgment of Reference Court is set aside.