
(2010) 02 DEL CK 0389
In the Delhi High Court
Case No : La. App. 97 of 2004

Union of India (UOI)

APPELLANT

Vs

Shri Nanda

RESPONDENT

Date of Decision : 01-02-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2010) 02 DEL CK 0389

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Ramesh Ray, for the Appellant; Nemo, for the Respondent

Judgement

Hima Kohli, J.—The present appeal is directed against a judgment dated 01.08.2002 passed by the learned ADJ on a reference received by him u/s 18 of the Land Acquisition Act (hereinafter referred to as "the Act"). By the impugned judgment, the learned ADJ held that the claimant was entitled to payment of enhanced compensation @ Rs. 12,650/- per bigha over and above the amount of Rs. 4,000/- per bigha awarded by the Land Acquisition Collector in respect of land situated in village Hiran Kudna, subject matter of Award No. 7/87-88. In other words, the market value of the land was fixed at Rs. 16,650/- per bigha and the claimant was held entitled to the said amount alongwith other statutory benefits in accordance with law.

2. Aggrieved by the aforesaid judgment, the Union of India has preferred the present appeal, which was admitted vide order dated 25.01.2007. Counsel for the appellant states that aggrieved by the compensation granted by the High Court at Rs. 10,750/- per bigha, the land owners of the same village, whose land was acquired vide notification issued u/s 4 of the Act dated 31.10.1980, preferred an appeal before the Supreme Court and claimed that the valuation ought to have been fixed at Rs. 30,000/- per bigha. The said appeal, registered as Civil Appeal No. 5280/2008 entitled Jeevani and Ors. v. Union of India, was decided by the Supreme Court, vide order dated 27.08.2008. A copy thereof is

handed over by the learned Counsel for the appellant and taken on the record. By the said order, the Supreme Court set aside the judgment of the High Court and remanded the matter to the Reference Court for re-examination as to the valuation of the land of the appellants therein, which had been acquired and to pass fresh orders, in accordance with law, after giving the parties an opportunity of leading evidence in support of their claim. The operative para of the order is reproduced hereinbelow for ready reference:

From the submissions made on behalf of the learned Counsel and the material on record, it is apparent that the matter requires a fresh determination taking into account all the factors. Apart from the fact relating to the yield of the lands in question, having particular regard to the fact that the lands are situated within the National Capital Territory of Delhi, where potentiality become relevant, we set aside the order passed by the High Court and remand the matter to the Reference Court for a re-examination as to the valuation of the appellants' lands which had been acquired and to pass fresh orders, in accordance with law, after giving the parties an opportunity of leading evidence in support of their claims.

The appeal is disposed of accordingly.

3. Counsel for the appellant herein states that the present case is also liable to be remanded back for the reason that in the impugned judgment dated 01.08.2002, the learned ADJ held that the market value of the land as determined vide judgment dated 22.02.2002 in LAC No. 1243/1993 entitled *Jai Lal v. Union of India* would be applicable to the land, subject matter of the present appeal. As a result, the market value of the land was fixed at Rs. 16,650/- per bigha alongwith other statutory benefits. Counsel for the appellant hands over a copy of the order dated 22.02.2002 passed by the learned ADJ in LAC 1243/1993, which is taken on the record. A perusal of the order shows that the learned ADJ relied upon a judgment of the Reference Court in another matter, pertaining to the land acquired in village Hiran Kudna vide Award No. 11/82-83, in respect of notification u/s 4 of the Act dated 30.10.1980 and held that as there was a gap of four years seven months between the date when land was acquired in the aforesaid case and the date when land was acquired vide notification dated 10.05.1985 (subject matter of LAC No. 1243/1993), enhancement in compensation could be awarded, by taking the market price of Rs. 10,750/-, as prevailing on 31.10.1980 and allowing the enhancement of 12% per annum from 31.10.1980 to 10.05.1985. Accordingly, the claimants in the said case were held entitled to enhancement in compensation by Rs. 12,650/- over and above the amount of Rs. 4,000/- awarded to them by the Land Acquisition Collector, i.e., Rs. 16,650/- per bigha.

4. Counsel for the appellant states that the aforesaid decision of the Reference Court dated 22.02.2002 passed in LAC No. 1243/1993, was challenged by the Union of India by preferring an appeal before this Court, registered as RFA No. 151/2003 entitled *Union of India v. Jai Lal*, which was dismissed vide order dated 16.10.2003. He states that the aforesaid dismissal order has attained finality as

the Union of India did not prefer an appeal against the said order before the Supreme Court. He however submits that the present matter is liable to be remanded back to the Reference Court, in the light of the subsequent order of the Supreme Court dated 27.8.2008, mentioned above.

5. There is merit in the submission made on behalf of the appellant. In the case of Jeevani (supra), lands acquired in village Hiran Kudna pursuant to notification issued u/s 4 of the Act, published on 31.10.1980 were subject matter of consideration, in the light of the judgment of the High Court fixing the compensation @ Rs. 10,750/- per bigha, as fixed in the present case, on the same analogy. Therefore, in light of the remand order dated 27.08.2008 passed by the Supreme Court in the case of Jeevani (supra) in respect of land situated in the same village, remanding the matter to the Reference Court for re-examination for the reasons stated therein, it is deemed appropriate to remand the present case as well to the Reference Court for fresh determination after taking into consideration the observation as made by the Supreme Court in the order dated 27.08.2008.

6. The appeal is disposed of.