
(2011) 11 AHC CK 0283
In the Allahabad High Court
Case No : First Appeal No. 195 of 1991

Vijay Nath

APPELLANT

Vs

Collector

RESPONDENT

Date of Decision : 24-11-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (2011) 11 AHC CK 0283

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Judgement

Hon"ble Pankaj Mithal, J.—Heard Sri Dhiraj Srivastava, learned counsel for the appellant and learned Standing Counsel for respondent.

2. The appeal u/s 54 of the Land Acquisition Act is directed against the judgment, order and decree dated 17.1.1991 passed in LAR No.107 of 1990 whereby the compensation awarded has been enhanced in respect of plot No.136 to Rs. 48,136/- in place of Rs. 30,136/- along with other statutory benefits admissible under the Act.

3. The land was acquired for the benefit of Krishi Utpadan Mandi Samiti in village Ramdas Pur Newada, Pargana Haveli, Tehsil Sadar, Jaunpur district.

4. The only submission of learned counsel for the appellant is that the Reference Court has not considered the exemplar sale deed dated 13.12.1985 executed by Smt. Shanti Devi in favour of Raj Nath in respect of plot No.193. The Reference Court has not assigned any reason for discarding the same and, as such, the judgment and order stands vitiated for non consideration of admissible evidence.

5. On the other hand, learned Standing Counsel submits that the land was acquired for the benefit of Krishi Utpadan Mandi Samiti and in view of U.P. Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by LRs. and another, etc., etc., as the beneficiary has not been made a party and given opportunity to adduce evidence and to be heard the impugned judgment and order cannot be sustained.

6. I have gone through the entire judgment and order of the Reference Court. Admittedly, from the side of the appellant the sale deed dated 13.12.1985 was filed as an exemplar sale deed. The said sale deed is an admissible piece of evidence but the Reference Court has nowhere considered the said sale deed.

7. Before the Reference Court two earlier judgments concerning the same acquisition were also adduced in evidence wherein compensation at the rate of Rs. 75,000/- per acre was awarded in respect of Sinchit land but the Reference Court discarded the aforesaid judgments on the ground that they pertain to a plot of land which was situate far away from the acquired land. Thereafter only for the reason that the acquired land was situate just adjacent to the main road enhanced the compensation. The said enhancement apparently is not based upon any evidence and, at the same time, relevant evidence of the appellant has escaped consideration.

8. In view of above, the matter requires reconsideration.

9. Further, the land was acquired for the benefit of Krishi Utpadan Mandi Samiti and in U.P Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by L.Rs. and another, etc. etc., it has been held by the Apex Court that the beneficiary of the land though may not be a necessary but being a proper party is entitle to be given notice to adduce evidence and to be heard for the purposes of award of compensation.

10. In view of the totality of the above facts and circumstances, it is considered proper to have the retrial of the matter.

11. Accordingly, the impugned judgment, order and decree/award dated 17.1.1991 passed in LAR No.107 of 1990 Bhol Nath and others Vs. State of U.P. is set aside and the matter is remanded to the Reference Court for decision afresh after notice to Krishi Utpadan Mandi Samiti. Since the matter is old, it is expected that the Reference Court will make all endeavour to decide the same expeditiously, preferably within a period of six months from the date of production of a certified copy of this order.