
(2011) 09 AHC CK 0384

Allahabad High Court

Case No: First Appeal No. 800 of 1990

State of U.P.

APPELLANT

Vs

Anuruddha Singh

RESPONDENT

Date of Decision: Sept. 21, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 18, 4, 54

Hon'ble Judges: Pankaj Mithal, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Pankaj Mithal, J.

Heard learned Standing Counsel for the Appellant and Sri C.K. Rai, Learned Counsel for the claimant-Respondent.

2. This appeal u/s 54 of the Land Acquisition Act (in short "Act") is filed against the judgment and order dated 11.9.1985 passed by District Judge, Etawah in Land Acquisition Reference No. 10 of 1984. The District Judge awarded compensation at the rate of Rs. 4/- per sq. ft. for the acquired land along with the statutory benefit.

3. The land about 1.7 acres in Tehsil Auraiya, district Etawah was acquired for the purpose of construction of the court of S.D.M., Munsif and Consolidation Officer. The notification u/s 4 of the Act was issued on 26.11.1982 and award of Rs. 83,220.01 Ps was made in respect of the entire land. The claimant-Respondent was not satisfied by the award of the Special Land Acquisition Officer and, as such, preferred a reference u/s 18 of the Act claiming compensation at the rate of Rs. 20-30 per sq. ft.

4. Challenging the enhancement made by the award of the Reference Court, learned Standing Counsel has contended that the enhancement is arbitrary. It has been made relying upon an exemplar of a small piece of land.

5. Learned Counsel for the claimant-Respondent has pressed cross-objection contending that he is entitled to at least Rs. 5/- per sq. ft. on the basis of one of the exemplars wherein the State itself has purchased land in the same village at the rate of Rs. 5/- per sq. ft.

6. Three exemplar sale-deeds were adduced in evidence on behalf of the claimant-Respondent. They are:

(i) Sale deed dated 20.12.82 in respect of plot No. 65 area 1800 Mauza Narainpur @ Rs. 10/- per sq. ft. (approx.);

(ii) Sale deed executed by Kewal Prasad in favour of Ram Shanker and another in respect of 1050 sq. ft. @ Rs. 5/- per sq. ft.; and

(iii) Sale deed dt. 31.3.82 in respect of 7700 sq. ft. of land @ Rs. 5/- per sq. ft.

7. The first two sale deeds filed by the claimant/Respondent were discarded as the co-relation of the land covered by the said sale deeds could not be established with the acquired land. The Reference Court held that the third exemplar sale deed executed by one Smt. Muniram in favour of the State is the best exemplar wherein the market value of the land comes to Rs. 5/- per sq. ft. but since the land under the said sale deed was purchased for construction of shops it only awarded compensation at the rate of Rs. 4/- per sq. ft.

8. Learned Standing Counsel has contended that the said exemplar could not have been relied upon for determining the market value as it was in connection with a small piece of land.

9. I do not find any illegality on the part of the Reference Court in relying upon said exemplar and awarding Rs. 4/- per sq. ft. as compensation. The Reference Court has rightly awarded the rate of Rs. 4/- per sq. ft. by reducing the rate as the land under the exemplar pertained to a small piece of land in comparison to the area acquired. There is no bar in placing reliance upon an exemplar sale deed of a small plot of land provided it has been executed in close proximity with the time of acquisition and relates to a similar land in the vicinity. However, such exemplars are required to be dealt with by applying appropriate deductions, if necessary. The Reference Court having allowed deduction of Rs. 1/- per sq. ft. has committed no error in basing its decision on the said exemplar. The deduction applied is not shown to be on the lower side.

10. As according to the above exemplar selected the market value of land has been determined to be Rs. 5/- per sq. ft. and by applying deduction on account of largeness of the acquired land vis-a-vis the area of the sale deed no case for any enhancement of compensation from Rs. 4/- per sq. ft. to Rs. 5/- per sq. ft. as claimed in objections has been made out.

11. In view of above, the appeal as well as cross-objection has No. merit and are rejected. No costs.