

**(2010) 09 DEL CK 0355**

**Delhi High Court**

**Case No:** Regular First Appeal No. 541 of 2001

Chander Bhan

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

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**Date of Decision:** Sept. 15, 2010

**Acts Referred:**

- Land Acquisition Act, 1894 - Section 18, 4

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

**Bench:** Single Bench

**Advocate:** D.V. Khatri, for the Appellant; Ramesh Ray, for R-1, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

P.K. Bhasin, J.

This appeal was filed against the judgment and decree dated 17.02.2001 passed by the Additional District Judge, Delhi enhancing the compensation to be awarded to the appellant whose land in village Khera Khurd was acquired pursuant to the notification dated 14/1/94 u/s 4 of the Land Acquisition Act. The Land Acquisition Collector had awarded compensation @ Rs. 96,875/- per bigha and upon a reference being made u/s 18 of the Land Acquisition Act at the instance of the appellant herein the Reference Court enhanced the compensation to Rs. 1,40,230/- per bigha. The appellant, however, was still not satisfied and so he preferred the present appeal.

2. The only point urged by the learned Counsel for the appellant was that the Reference Court has awarded the compensation to the appellant in terms of the Government's policy contained in Ex. P1 but that policy to the extent it permitted enhancement by 12% in respect of the lands acquired vide notifications issued after 03.05.1990 is illegal and arbitrary since the same policy permitted reduction to the extent of 15% in the market value of the land in respect of the awards passed on the basis of notifications issued prior to 03.05.1990 and so the Reference Court should have allowed 15% yearly increase instead of 12% since if reduction was to be to the

extent of 15% increase should also be to the extent of 15% and not 12%.

3. The learned Counsel for the respondent No. 1 (Union of India) submitted that this Court cannot go into the question of legality of the Government's policy contained in Ex. P1 relied upon by the Reference Court in the present appeal and also that the appellant in any case himself having got enhancement relying upon the said policy is now estopped from impugning that policy decision of the Government. The learned Counsel for the respondent No. 1 also submitted that this Court has already upheld the decision of the Reference Court fixing the same compensation in respect of the land of other villagers in the same village which had been acquired pursuant to same notification vide which the land of the present appellant had been acquired. That unreported decision was given on 04.03.2004 in RFA No. 148/2001. The learned Counsel further submitted that in that case also the reference Court enhanced the market value of the land in village Khera Khurd by Rs. 43,355/- per bigha as has been done in the present case also relying upon the policy Ex. P1.

4. This Court is in full agreement with the submissions of the learned Counsel for the respondent No. 1. Before the Reference Court the appellant had only relied upon Government's policy Ex.P-1 and the Court followed that policy decision and ordered enhancement in the compensation payable to the appellant. As per that policy the government had fixed the minimum price for the agricultural lands in Delhi at Rs. 4.65 lacs per acre w.e.f. 27/4/90 and further the said land rate was to be reduced by 15% yearly in cases of acquisitions carried out pursuant to the notifications issued u/s 4 before 3/5/90 and in cases of notifications issued after 3/5/90 there was to be increase by 12% yearly. The trial Court has given the benefit of 12% escalation to the appellant as per the said policy relied upon by him. If the appellant was aggrieved by the policy decision of the Government permitting only 12% increase in the market value of the lands acquired pursuant to the notifications issued after 03.05.1990 he should have challenged that decision of the Government in appropriate proceedings and in the present appeal he cannot impugn that. It is also not the case of the appellant that any other similarly placed land owner has been granted benefit of increase of 15%.

5. This appeal therefore lacks merits and is hereby dismissed.