

(2011) 07 DEL CK 0428

Delhi High Court

Case No: L.A. A.P.P. 652 of 2009

Nafe Singh

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision: July 15, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 4

Hon'ble Judges: Pradeep Nandrajog, J

Bench: Single Bench

Advocate: A.P. Dhamija, for the Appellant; Sanjay Poddar, for the Respondent

Final Decision: Dismissed

Judgement

Pradeep Nandrajog, J.

Vide two separate judgments dated 10.08.2009 and 28.09.2009, the learned Reference Court has dismissed 3 land acquisition references, holding that no case was made out to enhance the compensation awarded by the learned Land Acquisition Collector.

2. Lands in the Revenue Estate of village Kamruddin Nagar were acquired by a common award pursuant to a notification dated 30.05.1990 issued u/s 4 of Land Acquisition Act.

3. The impugned decision would reveal, as also the award, that the compensation was assessed with reference to the minimum price of agricultural land notified by the Government with respect to the date 30.05.1990. The same is Rs. 4,65,000/- per acre i.e. Rs. 96,875/- per bigha.

4. A perusal of the impugned decisions further reveals that the land owners had relied upon photo copies of 2 agreements to sell dated 8.7.1986 and 15.08.1987, Ex.PW2/1 and Ex.PW2/3, respectively. The land owners had also relied upon 3 sale deeds; each pertaining to 1 Bigha land sold in the Revenue Estate of village Mundka

on 27.02.1990 (2 sale deeds) and 14.06.1990 (1 sale deed).

5. Photo-copies of the agreements to sell, Ex.PW 2/1 and Ex.PW-2/3, pertain to sale agreements relating to 10 Bigha and 10 Biswa land as also 6 Bigha and 15 Biswa land in village Kamruddin Nagar.

6. The original agreements to sell were not produced before the court, nor were the executants thereto examined. Photo-copies of the 2 alleged agreements to sell being tendered by a witness who had no personal knowledge of the deal, the learned Reference Court has rightly rejected the evidentiary value of Ex. PW. 2/1 and Ex PW-2/3, both of which documents have not been proved as required by law.

7. As regards the 3 sale deeds pertaining to village Mundka, the learned Trial Court has held that village Mundka is more than 2 kilometers away from Village Kamruddin Nagar and thus the 3 sale deeds cannot be relied upon.

8. Not for the reasons given by the learned Trial Judge, I hold that the said 3 sale deeds would not be a good measure to determine the land value either in village Mundka or village Kamardun Nagar for the reason only 1 Bigha of land stands transferred under the 3 sale deeds.

9. It may be noted that under the large scale acquisition policy pertaining to the acquisition of agricultural land in Delhi, the Government is obliged to make available, at pre-determined rates, residential plots to the land owners and this has led to surreptitious transaction where 1 bigha or a little more land is purchased by people in Delhi, where as per notified master plan the development has to take place within the next few years. The taint in these sale deeds is that they are not reflecting the fair market value of land inasmuch as the purpose of the transaction is to get benefit of a developed residential plot at pre-determined rates, which rates are less than 1/3rd of the market value of the developed plots. That apart, the principle of sampling guides, that to be a representative sample of the whole, the sample must bear a fair portion to the whole. If the sample is meager, it would be a sample improperly so called and not a sample properly so called. Thus, I hold that the 3 sale deeds pertaining to village Mundka would not be good evidence to determine fair market value of land either in village Mundka or in village Kamrddin Nagar.

10. Noting that the only surviving evidence would be the notification issued by the Government fixing minimum value of agricultural land in Delhi as of 30.5.1990 in sum of Rs. 4,65,000 per acre and further noting that the notification with which I am concerned is dated 30.05.1990, I dismiss the appeal as said compensation stands paid, but make no order as to costs.