

(2001) 02 DEL CK 0159

Delhi High Court

Case No: Regular First Appeal No's. 569 of 1979 and 445 of 1984

Raj Kumar and Others

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision: Feb. 8, 2001

Acts Referred:

- Land Acquisition (Amendment and Validation) Act, 1967 - Section 4(3)
- Land Acquisition Act, 1894 - Section 4(1), 54

Citation: (2001) 91 DLT 252 : (2001) 59 DRJ 48

Hon'ble Judges: Mukul Mudgal, J; Devinder Gupta, J

Bench: Division Bench

Advocate: Om Prakash, for the Appellant; Nemo, for the Respondent

Final Decision: Allowed

Judgement

Devinder Gupta, J.

These appeals have been preferred u/s 54 of the Land Acquisition Act, 1894 by the claimants seeking determination of the amount of compensation payable to them for acquisition of their property.

2. Claimants property situate in village Ladha Sarai, Delhi was acquired for Planned Development of Delhi through Notification issued u/s 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) on 13.11.1959. It was followed by two declaration dated 7.12.1966 and 6.1.1969. For the first declaration corrigendum~~s~~ were issued on 23.9.1968; 23.12.1969 and 27.3.1970. Collector Land Acquisition also made different awards. Two awards were made on 28.3.1975, namely, Award Nos. 27 and 28 of 1974/1975. Placing reliance upon the market rates of land of village Lado Sarai, the adjoining revenue estate the Collector offered compensation to the claimants @ 4,000/- per bigha for land falling in Block A and @ Rs. 1,500/- for land falling in Block B. Feeling dissatisfied the claimants sought reference. The Reference Court by the impugned awards dismissed the reference holding that the Collector

had properly assessed the amount of compensation payable to the claimants. The claimants have filed these two appeals seeking determination of the amount of compensation.

3. The reference Court while deciding the references placed reliance upon his earlier decision rendered in another reference for determination of the amount of compensation of land situate in village Ladha Sarai acquired through the same notification. For want of evidence the reference petition had been dismissed by the Reference Court holding that the determination of the amount of compensation by the Collector is proper. The claimant/appellant R.F.A. 445/84 has placed reliance upon earlier awards made by the Reference Courts with respect to determination of the amount of compensation payable for the adjoining revenue estates of Lado Sarai and Mehrauli. Exhibits A-1 and A-3 pertain to determination of compensation payable for land situate at village Lado Sarai, Delhi acquired for same public purpose under the same Notification issued on 13.11.1959. In Exhibit A-1 market value was assessed at Rs. 6,500/- per bigha and in Exhibit A-3 market value was assessed at Rs. 7,000/- per bigha. The land was acquired for the same public purpose through the same notification. Exhibit A-2 pertains to the determination of amount of compensation with respect to land situate at village Mehrauli in which market value was assessed at Rs. 11,000/- per bigha but in the said village the acquisition took place through a subsequent Notification issued on 30.11.1960. As such Exhibit A-2 is not a relevant piece of evidence to enable us to determine the amount of compensation. Village Mehrauli is located towards Nand Kishore Vs. Union Of India, determined the amount of compensation payable for lands situate at village Mehrauli acquired through five separate Notifications issued between 13.11.1959 to 21.11.1978. For the acquisitions which had taken place through Notification dated 13.11.1959 issued u/s 4(1) of the Act for same purpose market rate was assessed at Rs.10,000/- per bigha. In a subsequent decision in Basti Ram v. Union of India, (RFA 55/82) decided on 25.11.1999 a Division Bench of this Court made determination of the amount of compensation with respect to land situate at village Lado Sarai acquired for the same public purpose through the same Notification issued u/s 4(1) of the Act on 13.11.1959. Decision of this Court in Nand Kishore (supra), was also referred to in Basti Ram's case wherein comparison was made to the land situate at village Lado Sarai with similar land situate at village Mehrauli and Adchini and on such comparison it was held that the land situate at village Lado Sarai had better location and potentiality than the land situate at village Mehrauli and consequently market value was assessed at Rs. 12,500/- per bigha.

4. Collector Land Acquisition in the awards by which compensation was offered to the appellants observed that the lands which were acquired in village Ladha Sarai were nearest to the adjoining revenue estate of Lado Sarai. By the general Notification which was issued u/s 4(1) of Act on 13.11.1959 considerable land situate in a large number of revenue estates adjoining Lado Sarai was acquired. Besides Mehrauli and Adchini land was also acquired in village Ladha Sarai. When the

Collector himself held that the land situate in village Lado Sarai was equivalent to the land of Ladha Sarai and proceeded to offer compensation on that basis that the land situate at village Ladha Sarai was about a furlong towards Qutab, Delhi there is no need for us to make fresh comparison of the acquired land situate at village Ladha Sarai with that of Mehrauli. There is also no reason that why in this case the decision in Basti Ram's case (supra), be not made basis for determination of compensation.

5. Accordingly the impugned awards are modified. The appeals are allowed with proportionate costs holding the claimants entitled to compensation @ Rs. 12,500/- per bigha. Claimants in RFA 445/84, in addition to the market value of land will be paid solarium @ 30% and interest on the enhanced market value @ 9% p.a. for a period of one year from the date of Collector taking possession and thereafter @ 15% p.a. till payment. The claimant in RFA 569/79, in addition to the enhanced market value will be paid solarium @ 15% and interest @ 6% p.a. from the date of Collector taking possession till payment. Claimants in both appeals will also be entitled to interest u/s 4(3) of Land Acquisition (Amendment and Validation) Act, 1967 for the period from the date of expiry of three years of the date of Notification issued u/s 4(1) of the Act to the date on which amount of compensation was tendered or paid under the award of the Collector.

6. In case in a pending reference in the Supreme Court interest is held payable on solarium, the claimants will also be paid interest on solarium. Decree will be drawn on the claimants making good deficiency in Court-fee, within a period of four weeks from today.

7. Appeals allowed.