

Harbans Lal Jain

Vs

Union of India

Civil Appeals Nos. 1106 and 2355 of 1972

(P. N. Bhagwati, P. K. Goswami JJ)

07.02.1974

JUDGMENT

GOSWAMI, J. -

1. These two counter appeals by certificate are directed against the judgment of the Delhi High Court in a land acquisition case. The facts appearing from the judgment are as follows :

2. Harbans Lal Jain, the appellant, had purchased an area of land measuring 205 bighas and 11 biswas in village Dharipur sometime in 1950. This land had a frontage on the Princess Road off Kingsway and was behind the Model Town colony. In 1951-52 the appellant sold certain plots out of this land without getting any plans sanctioned by the appropriate authorities. On October 3, 1959, a notification under Section 4 of the Land Acquisition Act, 1894 (briefly the Act) was made by the Government which ultimately culminated in the acquisition of 43 bighas 4 biswas out of this land. The Land Acquisition Collector (briefly the Collector) awarded compensation at the rate of Re. 1 per square yard which was increased to Rs. 2. 8 per square yard by the Additional District Judge in the relevant reference case. The High Court of Punjab in appeal further increased the compensation to Rs. 8 per square yard by its judgment dated July 24, 1963. There was no further appeal to this Court against that order of the High Court of Punjab. On July 23, 1962, the Government issued another notification under Section 4 of the Act in respect of the remaining land comprising an area of 163 bighas and 7 biswas. The notification under Section 6 of the Act was made on September 13, 1962. The Collector by his award dated January 28, 1963, offered to the appellant Rs. 2,500 per bigha as against his claim of Rs. 70,000 per bigha. In this land there was an area of 4 bighas 10 biswas which was a nullah for which the Collector awarded Rs. 1,000 per bigha. After excluding the land which was the subject matter of previous sales by the appellant and the land covered by the nullah, there remained 76 bighas 6 biswas in respect of which the appellant prayed for a reference claiming at the rate of Rs. 70 per square yard or Rs. 70,000 per bigha. According to the appellant, in 1950-51-52 the appellant himself had sold various plots of land at rates varying between Rs. 4 and Rs. 5 per square yard. His case was that the value of the land at the time of the notification in 1962 was more than ten times the price prevailing in the years 1950-52. He also pointed out that the land in question was adjacent to the fully developed Model Town Colony, where all services such as pucca road, electricity, water supply, sewage, etc. existed and where the price of the land was Rs. 100 per square yard. It was also pointed out by the appellant that the land abutted on the Princess Road which is a metalled road and had a potential value being situated in the best expanding locality. He further stated that the land was not in a low lying area, as held by the Collector, and was suitable for developing a colony and the compensation should have been awarded by the Collector at the rate of Rs. 70 per square yard. The appellant claimed for a reference to the Court under Section 18 of the Act and the Additional District Judge, Delhi, by his judgment dated December 18,

1967, enhanced the compensation to Rs. 8 per square yard basing his decision upon the earlier High Court judgment which we have already adverted to. There upon the appellant preferred an appeal to the Delhi High Court. The High Court enhanced the price of the acquired land to Rs. 10 per square yard. Hence Civil Appeal No. 1106 of 1972 by certificate by the appellant. The respondent, Union of India, also being aggrieved by the judgment of the High Court filed a counter appeal, Civil Appeal No. 2355 of 1972, with certificate.

3. The reasons given by the High Court enhancing the price of the land may be quoted below :

The argument is that the fair market price of a portion of this very land was fixed by the High Court at Rs. 8 in 1959. Thereafter, there has admittedly been a trend of rise in the prices. The ration of the rise is indicated not only by the sale of plots in Model Town covered by Exhibits A. 1 to A. 5 but also by the sale of other agricultural land on which reliance was placed by the respondent and this ratio shows that between 1959 and 1962, there was a rise of at least 100 per cent in the price of land in that area.

The learned Counsel for the appellant submits that on the findings of the High Court, as noted above, he is at least entitled to Rs. 16 per square yard, being double the rate awarded by the High Court in 1959.

4. At this stage it will be appropriate to note the reasons given by the High Court in not allowing Rs. 16 per square yard. The first ground is that the level of the land is lower than that of the Model Town by two feet and that even on the Mall Road side by one foot, The second reason is that with the acquisition of 43 bighas 4 biswas of land belonging to the appellant in 1959 the present land lost its frontage on the Princess Road and the only approach to it now is through the roads of Model Town. The third reason given by the High Court is that the ratio of rise of undeveloped land would be comparatively lower than the ration of rise of developed land.

5. It is however, clear that even in an undeveloped state of the land the appellant had been given compensation for the land in the earlier acquisition proceeding at the rate of Rs. 8 per square yard. Besides, we find from the earlier High Court judgment (Ext. A-34) that the High Court took into account the fact that the remaining portion of the land, a part of which is that subject-matter of this appeal, had already been notified for acquisition under Section 4 of the Act. We may read what the High Court had observed in the earlier case :

Coming to the question of severance, it has been stated at the Bar by Mr. Shankar, and not controverted by Mr. Bhagwat Dayal, the learned Counsel for the appellant, that the remainder of the land belonging to the appellant has also been acquired. In this view of the matter, it seems unnecessary and pointless to discuss the question of severance and the amount of compensation awarded by us would have a material bearing on the compensation which is to be awarded for the land for the severance of which compensation has been claimed. There is thus no force in the claim for an increase in the amount awarded by the District Judge in respect of severance.

It is, therefore, absolutely clear that the second reason given by the High Court has no material bearing on this case and the appellant's claim cannot be adversely affected further on this account. With regard to the first reason, it is sufficient to point out that that was already taken into account by the High Court while fixing compensation at the rate of Rs. 8 per square yard in the earlier proceedings. With regard to the third ground, the High Court itself has found that "there was a rise of at least 100 per cent in the price of land in that area". We are, therefore, clearly of opinion that

the reasons given by the High Court for deducting Rs. 6 per square yard are not at all relevant considerations in this case in favour of not granting Rs. 16 per square yard which the High Court was prepared to grant but for the above grounds. We, therefore, hold that the appellant is entitled to Rs, 16 per square yard for the land in dispute in this appeal. The appellant will be entitled to solatium at 15 per cent on the total enhanced compensation in addition to interest at the rate of 6 per cent per annum from the date of possession till the date of payment. In the result Civil Appeal No. 1106 of 1972 is allowed with proportionate costs and Civil Appeal No. 2355 of 1972 is dismissed without costs.

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