

Major Dhian Singh

Vs

Union of India

Civil Appeal No. 3147 of 1980

(M. H. Kania, R. M Sahai JJ)

25.10.1991

JUDGEMENT

KANIA, J. :-

1. This is an appeal under S. 54 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act") from the judgment of the Delhi High Court in R.F.A. No. 88 of 1970 preferred by the appellants herein.
2. The Government required 403 bighas and 19 biswas of land in Tarapur Estate for planned development of Delhi. Notifications under S. 4 of the said Act were issued on November 13, 1959, and June 14, 1963, respectively. The acquisition was duly completed. Among the lands acquired was an area of land comprising 4 bighas and 8 biswas belonging to the appellants. The Land Acquisition Officer awarded compensation by dividing the land into three Blocks, namely, Block A, Block B and Block C. The compensation in respect of lands in Block B was fixed by him at Rs. 2,500 per bigha and for land in Block C at Rs. 1,800 per bigha. The land of the appellants fell entirely in Block B and Block C and we are, therefore, not concerned with the valuation of land falling in Block A. On a reference under S. 18 of the said Act, the Additional District Judge, Delhi raised the compensation for land falling in Block B from Rs. 2,500 to Rs. 4,310 per bigha and for lands in Block C from Rs. 1,800 to Rs. 3,103 per bigha. Not being satisfied, the appellants preferred an appeal, being R.F.A. No. 88 of 1970 in the Delhi High Court. The High Court following its judgment in R. F. A. No. 186 of 1972 (Daya Nand Co-operative Housing Building Society v. Union of India, decided on February 26, 1979) raised the compensation for lands in Block B from Rs. 4,310 to Rs. 10,000 per bigha and for lands falling in Block C from Rs. 3,103 to Rs. 9,000 per bigha. Solatium at the rate of 15 per cent and 6 per cent interest on the enhanced compensation from the date of dispossession till the date of payment were awarded to the appellants.
3. Learned counsel for the appellants submits that the Division Bench of the High Court, which delivered the impugned judgment, was in error in mechanically following the decision in R.F.A. No.186 of 1972 referred to above without appreciating that in that case, although lands in Block B were valued at Rs. 12,000 per bigha, the appellants were awarded Rs. 10,000 per bigha only because his claim was limited to that amount. He pointed out that in the present case the claim made by the appellants was at Rs.20,000 bigha in respect of the land in Block B and hence, there was no reason as to why the compensation in the case of the appellants in respect of his land falling in Block B, should have been limited to Rs.10,000 per bigha.He contended that the land of appellants was superior to that of the appellants in R.F.A. No.186 of 1972 but he conceded that in view of that aspect not having been discussed at all in the impugned judgment, the appellants could be awarded compensation at Rs. 12,000 per bigha being the appropriate compensation on the basis of market

value in respect of the land falling in Block B in R.F.A. No.186 of 1972. We are of the opinion that the contention of learned Counsel for the appellant is well founded. A perusal of the judgment in R.F.A. No. 186 of 1972, delivered on 16th February, 1979, shows that the appellant had limited his claim to Rs. 10,000 per bigha. The discussion would show that the correct market value of the land falling in Block B at the relevant time was assessed at Rs. 12,000 per bigha.

4. Learned Counsel for the respondent was unable to point out any infirmity in the aforesaid submission made by the learned Counsel on behalf of the appellant. In these circumstances, the impugned judgment is varied to the extent that the compensation in respect of the land of the appellant falling in Block B will be raised from Rs. 10,000 to Rs. 12,000 per bigha and consequential benefits calculated accordingly.

5. The appeal is allowed as aforestated. There will be no order as to costs.

Appeal allowed.

</html