

Jhandoo (Dead) By Lrs. and Others

Vs

Union Of India

Civil Appeal No. 281 of 1985

(K. Ramaswamy, G.B. Pattanaik JJ)

07.08.1996

ORDER

1. This appeal arises from the judgment dated 23-7-1984 of the Division Bench of the Delhi High Court made in RFA No. 281 of 1979.
2. Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") acquiring a large extent of land was published on 8-3-1957. The land of the appellant admeasuring one bigha and 14 biswas formed part of that land. The Reference Court relying upon the judgment of the High Court in A.N. Bhandari v. Union of India [LPA No. 81 of 1979, decided on 1-5-1990] awarded compensation @ Rs 10 per square yard. On appeal, it was confirmed. The High Court relied upon a single sale deed in similar case in which market value had been fixed @ Rs 12 per square yard. Therefore, the appellant also claimed that rate. Since he was not awarded the rate claimed by him, he has filed appeal in this Court challenging the impugned judgment of the High Court.
3. Shri Juneja, the learned counsel for the appellant, contended that the High Court, having found that the market value of the land in question could fetch Rs 12 per square yard, would have granted compensation at that rate. Though prima facie we find the contention plausible and acceptable, in view of the legal position that at least 1/3rd of the market value has to be deduced towards development charges and that the said consideration was not adopted in the case on which reliance is placed, the fact boils down that if the award is to be interfered with, the appellant would get less than what has been granted to him by the High Court. However, since the State has not filed any appeal and in the facts and circumstances of the case, we are of the view that it is not a case warranting interference.
4. The appeal under Section 54 of the Act would not lie to this Court. A reading of Section 54 would clearly indicate that the appeal shall lie in any proceedings under the Act only to the High Court against the award and decree of the Reference Court and further appeal to this Court would be under Article 136 of the Constitution read with Section 110 CPC, by way of special leave and not under Section 54 of the Act except when the High Court has given certificate thereunder.
5. Accordingly, this appeal cannot be treated to be an appeal under Section 54 of the Act but one by special leave under Article 136. In either case, we do not find any ground warranting interference. Hence the appeal is dismissed. No costs.