

Karan Singh & Ors.etc.

Vs

Union of India

(Dr. A. S. Anand, V. N. Khare JJ)

24.09.1997

JUDGMENT

V.N.KHARE, J.

1.This group of Civil Appeals by special leave and Special leave Petitions is directed against the judgment of a Division Bench of Delhi High Court and the questions involved therein relate to quantum of compensation with regard to acquisition of the appellants' land situated in village Gharoli, Delhi. Since common question of facts and law is involved, we propose to dispose of these appeals and special leave petitions by a common judgment, noticing the facts of the case as appearing in Civil Appeal No.2981/95.

2.Land measuring 2600.12 bighas situated in the revenue estate of village Gharoli which included the appellants' land was notified for acquisition vide notification dated 17.11.1980 issued under Section 4 of the Land Acquisition Act (for short the "Act").The purpose for acquisition shown was planned development of Delhi. This was followed by declaration issued under Section 6 of the Act on 29.9.81.The Collector by an award dated 2.7.83 assessed the market value of the entire land at Rs.9,000/- per bigha except some portions of land the value of which was fixed at Rs.7,000/- and 4,000/- per bigha, respectively. The appellants not contend with the said award of the Collector sought references for determination of compensation payable to them. The Learned Additional District Judge, Delhi determined the market value of appellants' acquired land at the rate of Rs.23,000/- per bigha. It may be noticed here that for other portions of the land the Additional District Judge awarded lower rates of compensation. Thereafter, the appellants preferred Regular First Appeals in the High Court of Delhi against the judgment dated 21.11.92 of the Learned Additional District Judge. However, the Union of India accepted the judgment of the Learned Additional District Judge as it did not prefer any appeal to the High Court. The High Court of Delhi by a common judgment rendered in 46 appeals filed by the claimants in respect of the same village granted compensation at the uniform rate of Rs.76,550/- per bigha to all the claimants it is in this way the present appeals and the special leave petitions have come up before us.

3.Learned counsel for the appellants urged that the leases, Ext.A-8, A-9, A-10, A-12, and A-13 relied upon by the appellants for enhancement of compensation for the acquired land were erroneously rejected by the High Court on the ground that these evidences related to the post notification issued under Section 4 of the Act.According to learned counsel for the appellants the lands comprised in Ext.A-8, A-9, A-10, A-12, and A-13 are situate near the acquired land and the leases thereof were executed shortly after the notification under Section 4 of the Act, and as such, they ought to have been relied upon by the High Court in arriving at the correct market value of the acquired land.

4.Ext.A-8, A-9 and A-10 relate to plots of land situate in Jhilmil Tahirpur and Ext.A-12 and A-13

relate to leases in respect of land situate in Sector 12, NOIDA. These leases were executed much after the notification issued under Section 4 of the Act in the present case.

5. Before we advert to the argument raised on behalf of the appellants, it has to be borne in mind while deciding these appeals, this Court is not required to re-appraise the evidences which were considered by the Courts below. But what concerns us is whether correct or legal principles were applied in arriving at the market value of the acquired land in awarding compensation to the claimants. When a land is compulsorily acquired, what is basically required to be done for awarding compensation is to arrive at the market value of the land on the date of notification under Section 4 of the Act. The market value of a piece of land for determining compensation under Section 23 of the Act would be the price at which the vendor and the vendee (buyer and seller) are willing to sell or purchase the land. The consideration in terms of price received for land under bone fide transaction on the date of notification issued under Section 4 of the Act or few days before or after the issue of notification under Section 4 of the Act generally shows the market value of the acquired land and the market value of the acquired land has to be assessed in terms of those transactions. The sale of land on or about the issue of notification under Section 4 of the Act is stated to be the best piece of evidence for determining the market value of the acquired land. Often evidence on transaction of sale of land on or few days before the notification under Section 4 is not available. In the absence of such evidence contemporaneous transactions in respect of lands which had similar advantages and disadvantages would be the good piece of evidence for determining the market value of the acquired land. In case the same is not also available, the other transaction of land having similar advantages nearer to the date of notification under Section 4 of the Act would guide in determination of the market value of acquired land. In the present case, in the absence of evidence of any transaction or sale of land on the date of issue of notification under Section 4 of the Act, the Court would be justified in relying upon the transaction of sale of land having similar advantages nearer to the notification issued under Section 4 of the Act which can be taken as a guide for determining the market value of the acquired land and compensation to be awarded to the claimants. Thus the transaction of sale of land after the issue of notification under Section 4 of the Act can guide the Court in fixing the market value of the acquired lands under certain conditions. In the case of Administrator General of West Bengal vs. Collector, Varanasi, AIR 1988 SC 943, it has held thus:-

"Such subsequent transaction which are not proximate in point of time to the acquisition can be taken into account for purposes of determining whether as on the date of acquisition there was an upward trend in the prices of land in the area. Further under certain circumstances where it is shown that the market was stable and there were no fluctuations in the prices between the date of the preliminary notification and the date of such subsequent transaction, the transaction could also be relied upon to ascertain the market value."

6. It is, therefore, no longer in doubt that in the absence of any evidence of sale of land on the date of issue of notification under Section 4 of the Act, under certain conditions the post notification transactions of sales of land can be relied upon in determining the market value of the acquired land. One of the conditions being that it must be shown before the Court by reliable evidence that there was no appreciation of the value of land during the period of issue of notification under Section 4 of the Act and the date of transaction of sale which is sought to be relied upon for the purposes of fixing the market value of the acquired land. It has also to be borne in mind that if the claimant relies on any post notification transaction, the burden is upon him to show that the price of the land remained static and there was no upward rise in the price of the land during the period of issue of

notification under Section 4 of the Act and the date of transaction of sale. In the present case what we find is that excepting filing of Ext.A-8, A-9, A-10, A-12, and A-13, no effort was made by the claimants to establish before the Court that there was no upward rise in the price or increase in the price of land in village Gharoli and NOIDA during the period between the issue of notification under Section 4 and date of execution of the Exhibits sought to be relied upon.

7. Before we part with the first argument of learned counsel for the appellants, we would like to notice the two decisions in the cases of State of U.P Vs. Major Jitendra Kumar and others, AIR 1982 SC 876 and in Mehta Ravindraraj Ajitrai (deceased by LRs) and others Vs. State of Gujrat, AIR 1982 SC 2051, relied upon by the learned counsel for the appellants. In these cases there is no controversy as to whether the burden to establish that there was no rise in price of land after the issue of notification under Section 4 of the Act, was on the claimant or on the State, and as such, these decisions are of no assistance for deciding the controversy at hand. For these reasons we are of the opinion that the High Court did not commit any error in rejecting Ext.A-8, A-9, Ext.A-10, Ext.A-12 and Ext.A-13 while arriving at the market value of the acquired land.

8. Learned counsel for the appellants then urged that the High Court erroneously discarded Ext.A-11 which was an award in respect of a land at village Jhilmil Tahirpur on the ground that it was not a previous judgement of the Court. The land comprised in the award was acquired under notification issued under Section 4 of the Act on 27.7.81. By the said award, the Court awarded compensation @ Rs.625/- per sq.yds. It has earlier been seen that in the present case the notification issued under Section 4 of the Act was earlier in point of time than the notification issued for acquisition of land comprised in Ext. A-11. There is no quarrel with the proposition that judgements of Courts in land acquisition cases or awards given by the Land Acquisition Officers can be relied upon as a good piece of evidence for determining the market value of the land acquired under certain circumstances. One of the circumstances being that such an award or judgement of the Court of law must be a previous judgement. In the case of Pal Singh and others Vs. Union Territory of Chandigarh, JT 1992(5) SC 371, it was observed thus:-

"But what cannot be overlooked is, that for a judgement relating to value of land to be admitted in evidence either as an instance or as one from which the market value of the acquired land could be inferred or deduced, must have been a previous judgement of Court and as an instance, it must have been proved by the person relying upon such judgment by adducing evidence aliunde that due regard being given to all attendant facts and circumstances, it could furnish the basis for determining the market value of the acquired land. "Following this decision, we hold that it is only the previous judgement of a Court or an Award which can be made basis for assessment of the market value of the acquired land subject to party relying such judgement to adduce evidence for showing that due regard being given to all attendant facts it could form the basis for fixing the market value of acquired land.

9. In view of the fact that Ext.A-11 was not the previous judgement, it was rightly rejected and not taken as a guide for arriving at the market value of the acquired land.

10. Learned counsel for the appellants lastly relied upon three decisions of this Court in support of his arguments. Baldev Singh and others Vs. State of Punjab, 1966 (10) SCC 37, State of Madras Vs. A.M. Nanjan and another, 1976(1) SCC 973, and Land Acquisition Officer, City Improvement Trust Board Vs. H. Narayanaiah etc. etc. 1977(1) SCR 178. We have perused the judgements and in none of the decisions the controversy related to previous judgement or subsequent judgement and as

such, these decisions are not helpful to the arguments of learned counsel for the appellants.

11. For the foregoing reasons, there is no merit in these appeals and the special leave petitions, which are accordingly dismissed. There shall not be any order as to costs.