

SUPREME COURT OF INDIA

Union of India

Vs.

Harpat Singh

C.A.No.2367 of 2006

(S.B. Sinha and Cyriac Joseph JJ.)

12.05.2009

JUDGEMENT

S.B. SINHA, J.

1. Chilla Saroda Bangar is now a part of East Delhi. There is another small village in the said area known as Chilla Saroda Khader. For development of the said area, several notifications were issued not only in respect of the aforementioned two villages but also villages known as Gharoli, Kondli and Dallupura. Indisputably, lands of all these villages were subjected to acquisition under the Land Acquisition Act wherefor diverse notifications were issued from 1979 to 1987. Land Acquisition proceedings were, however, initiated in respect of different villages separately.

2. Amount of compensation awarded in respect of villages Kondli, Gharoli and Dallupura were subject matters of some decisions before this Court, namely, Karan Singh & Ors. v. Union of India [(1997) 8 SCC 186] and Delhi Development Authority v. Bali Ram Sharma & Ors. [(2004) 6 SCC 533].

Before, however, we advert to the aforementioned decisions and some others, we would like to notice the basic details of these cases : 2367/06 Harpat Singh Saroda Bangar 2368/06 Jatinder Nath Soni Saroda Bangar

3. Civil Appeal No. Land Acquisition 17.11.1980 Chilla 2369/06 Collector vs. Fehimida Saroda Zia & Anr. Bangar

4. Civil Appeal No. Union of India & Anr. 17.11.1980 Chilla Ansari Bangar

5. Civil Appeal Sheo Raj (D) by Lrs. 09.04.1979 Chilla Bangar 2372/06 State of U.P. & Anr. Saroda Bangar

7. Civil Appeal No. Sheo Raj (D) by Lrs. 21.7.1987 Chilla Anr. Khader

8. Civil Appeal No. Kartar Singh (D) by Lrs. 09.04.1979 Chilla India Bangar 2375/06 India Saroda Bangar 4204/04 Ram Sharma Saroda Bangar

3. We may furthermore notice that in respect of lands situated in village Gharoli, the learned Land Acquisition Collector awarded a sum of Rs.9,000/- per Bigha.

We may also notice the respective dates of the awards made by the Land Acquisition Collector, the Reference Court, the High Court as also this Court in respect of the aforementioned four villages in the following comparative chart:

Gharoli Kondli Dallupura Chilla Saroda (Approx 2600 Bangar Bighas (Approx.892 Bighas) Section 4 17.11.80 17.11.80 17.11.80 17.11.80 Notification Award Rs.9,000 per Rs.8500 per Rs.8,500 per Rs.8,000 per bigha bigha bigha bigha Reference Rs.23,000 per Rs.76,550 per Rs.76,550 per Rs.8,000 per Court bigha bigha bigha bigha High Court Rs.76,550 per Rs.3,45,000 Rs.3,45,000 Rs.3,45,000 per bigha per bigha per bigha bigha Supreme No increase Reduced to Reduced to Court [Karan Singh & Rs.76,550/- Rs.76,550/- India (1997) 8 Development Development Bali Ram Bali Ram Sharma & Sharma & Ors. - (2004) Ors. - (2004)6 SCC 533 - 6 SCC 533 - in view of in view of Karan Singh Karan Singh India India

4. In *Karan Singh (supra)*, this Court laid down the legal principles required to be applied in arriving at the market value of acquired land in awarding compensation to the claimants, stating :

"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 the 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 bona fide transaction on the date of notification issued under Section 4 of the Act or a 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 a 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 a 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."

Opining that a judgment rendered in respect of the lands similarly situated may be required to be taken into consideration as an instance or as one from which the market value of acquired land could be inferred or deduced, it was held that :

"It is only the previous judgment of a court or an award which can be made the basis for assessment of the market value of the acquired land subject to party relying on such judgment 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."

However, it was held that the judgment relied on therein was not relevant.

In Karan Singh (supra), we have noticed hereinbefore, the High Court granted compensation at the rate of Rs.76,500/- per bigha which was upheld by this Court.

5. In Bali Ram Sharma (supra), Karan Singh was followed noticing that the same set of evidence had been adduced in both the matters. It was stated:

"5. Having regard to the undisputed facts and the material placed on record and in the light of judgment of this Court in Karan Singh case it is not possible for us to take a different view as regards market value of the lands covered by the same notification issued under Section 4(1) of the Act. Under these circumstances these appeals are entitled to succeed. They are accordingly allowed and the impugned judgments are modified by reducing the amount of compensation from Rs.345 per sq yard (amounting to Rs.3,45,000 per bigha) to Rs.76,550 per bigha. The impugned judgments stand modified accordingly so far they concern fixation of market value making it clear that the respondents are entitled to statutory benefits available under the Act based on the amount of compensation as modified above."

6. We may also notice that a Division Bench of this Court in Union of India v. Bedi Ram & Anr. [Civil Appeal No.4404 and 4403 of 2005 decided on 20.7.2005] disposed of appeals with respect to villages Dallupura and Kondli following of the judgment in Bali Ram Sharma (supra).

7. In Gian Chand & Ors. v. Union of India [CA No.9147 of 1995 disposed of by a judgment and order dated 12.11.2002] for the lands situated in village Gharoli, a Division Bench of this Court opined that the notifications were issued in respect of clusters of villages including the village under consideration as well as village Kondli and allowed compensation at the rate of Rs.30,000/- per Bigha. However, in that case, the notification was issued on 19.8.1976.

8. Mr. S.P. Singh, learned counsel appearing on behalf of appellant, would contend that the principles governing computation of compensation for acquisition of land would depend upon various factors, namely, the date of notification, the periodical increases of market value, compensation granted for acquisition in and around for similar development purposes, similar minimum standard for computing the amount of compensation required to be applied and nature of the land and the year of acquisition. It was on the aforementioned premise, Mr. Singh would submit that compensation may be determined following Gian Chand and Bali Ram Sharma at the rate of Rs.76.50 per square yard, namely, Rs.76,500/- per Bigha.

9. It was furthermore contended that the High Court committed a serious error in so far as it failed to take into consideration that out of 103 persons who had filed applications for reference in terms of Section 18 of the Act only five persons adduced evidence by exhibiting certain deeds of sale which were executed after the date of execution and, thus, were not relevant. It was, furthermore urged that the deeds of lease executed by New Okhla Industrial Development Authority (NOIDA) also could not have been taken into consideration as the same had been executed in the year 1983 when it was a developed area.

10. Mr. Mahendra Anand, learned senior counsel appearing on behalf of respondent, on the other hand, would urge :

1) No case has been made out for condonation of delay. Thus, all the appeals should be dismissed.

2) The decisions rendered by this Court in Karan Singh; Bali Ram Sharma and Gian Chand etc. cannot be said to have any application as the village Chilla Saroda Bangar is nearer to Delhi whereas those villages adjoin the border of Uttar Pradesh.

11. Drawing our attention to the fact that the High Court for cogent and sufficient reasons, rightly chose not to follow the decisions in Karan Singh and Bali Ram Sharma and in view of the location of the village, vis-`-vis, Gharoli, Kondli and Dallupura, stating :

"11. In so far as village Gharauli is concerned, as per the evidence on record and as per the topography and location vis-`-vis the revenue estate of Chilla-Saroda-Bangar, it is the last village on North Eastern side. In between Gharauli and Chilla Saroda-Bangar are located Dallupura and Kondli. Therefore, even from distance it is the farthest and in the absence of any material on record about its comparison to the land of village Chilla Saroda Banger, it may not be appropriate for us to place reliance upon the decision in Karan Singh's case (supra)."

12. Only on that basis, it was urged that the High Court had rightly chosen to follow Ratan Lal in preference to Karan Singh and Bali Ram Sharma, stating :

"18. The very fact that fact of village Chilla Saroda Bangar, which was acquired by the same notification in which land was acquired in Dallupura being adjacent to the said revenue estate, there being no difference in the location, situation, potentiality, advantage attached and other allied

relevant factors, there is no reason that why there should be a departure since we fully agree with the ratio of the decision in Rattan Lal's case (supra) and for that reason in Anil Kumar's case (supra). We need not rely upon and fall back on the determination of the amount of compensation of village Gharauli, which is farthest and for which there is no evidence or material brought on record by the respondents or material brought on record by the respondents that lands of village Gharauli were similarly situate having similar potentiality.

There is positive evidence on record of the acquired land being similar to that acquired in villages Dallupura and Kondli.

19. On the basis of the ratio of the decisions aforementioned, it will not be inappropriate for us to uphold favourably consider the appellants claim that since land of village Dallupura was just touching the boundaries of village Chilla- Saroda-Bangar and the location, situation and potentiality being same, there is no reason to deprive the appellants of similar treatment since there was hardly any difference as regards advantages attached to the land situate within two revenue estates. There is no material or evidence brought on record even to contradict the stand of the appellants as regards the benefits, which were available to the land situate in village Chilla-Saroda-Bangar and to the lands of village Dallupura."

13. Drawing our attention to Eicher Plan, it was urged that whereas Chilla Saroda Bangar village is adjoining to roads being nearer to Delhi, Dallupura, Kondli and Gharoli are situated at a far distant place. It was furthermore submitted that deeds of lease executed by NOIDA in the year 1983 in terms whereof the premium was fixed at Rs.83,640/- for 150 sq. meter of land which would roughly be Rs.154.07 per square meter although were executed in the year 1983 but the application therefor were, in fact, filed in 1980. Reliance was also placed upon the deposition of one Vikram Singh. Patwari of Tehsil Dadri, Uttar Pradesh who had examined himself as PW1 wherein he stated that the village is contiguous to revenue estate of village Nayabans which is in NOIDA and Sector 14, 15 and 15A fell within the limits of Nayabans. Our attention has further been drawn to the evidence of B.K. Sharma, Assistant Development Manager, NOIDA, Uttar Pradesh who had examined himself as PW2 which is in the following terms :

"Plot No.34 in sector No.15-A NOIDA has been allotted to Smt. Rajinder Kaur as per our record which I have brought. The said plot was allotted on 10.4.1981. Total cost of the said plot was Rs.83,270/-. Earnest money of Rs.15,570/- was paid by allottee at the time of making the application on 3.12.80."

Strong reliance was also placed by Mr. Anand on a decision of this Court in *Basant Kumar & Ors. v. Union of India & Ors.* [(1996) 11 SCC 542], wherein it was held :

"The learned Judges have adopted the principle that the entire lands in the village shall be treated as one unit and the compensation shall uniformly be determined on that basis. The principle is wholly unsustainable in law and cannot be a valid ground for determination of compensation. It is common knowledge that even in the same village, no two lands command same market value. The lands abutting the main road or national highway command higher market value and as the location goes backward, market value of interior land would be less even for the same kind of land. It is a settled legal position that the lands possessed of only similar potentiality or the value with similar advantages offer comparable parity of the value. It is common knowledge that the lands in the village spread over the vast extent. In this case, it is seen that land is as vast as admeasuring 1669 bighas, 18 biswas of land in the village. So, all lands cannot and should not be classified as possessed of same market value. Burden is always on the claimant to prove the market value and the court should adopt realistic standards and pragmatic approach in evaluation of the evidence. No doubt, each individual had different parcels of the land out of that vast land. If that principle is accepted, as propounded by the High Court, irrespective of the quality of the land, all will be entitled to the same compensation. That principle is not the correct approach in law. The doctrine of equality in determination and payment of same compensation for all claimants involved in the same notification is not a good principle acceptable for the aforesaid reasons. When both the lands are proved to be possessed of same advantages, features etc., then only equal compensation is permissible."

14. Mr. Vinay Garg, learned counsel appearing for respondent in Civil Appeal No.2368 of 2006, would urge that even if Ratan Lal is not followed in these matters, no deduction should be made as has been done in Bali Ram Sharma as building activities of DDA had already started in village Chilla Saroda Bangar whereas the land of village Dallupura had obtained due importance upon coming up of NOIDA as would appear from the award of the Land Acquisition Collector in respect of Dallupura.

15. In respect of land situated in village Kondly, our attention has further been drawn to an award made in the case of Bali Ram Sharma for the purpose of showing that therein the auction rates had been held to be not the basis for determining the market value of certain land as the lands in question were agricultural lands. In the said award also, it was accepted that the villages are closed to NOIDA. In the said award, it was held :

"15. Now the question remains as to which sale instance of Noida should be taken into consideration P-1 Sh. B.K. Sharma testified that the land rates in Noida varied between Rs.120/- per sq. yards to Rs.175/- per sqmtr. This witness gave land rates of various sectors. The petitioners in this case have not been able to adduce evidence to show as to which sector is close to their land even otherwise the petitioners land is on the date of notification was agricultural one, whereas the land rates of residential plots are being applied to the land of the petitioners while assessing the market value of the land of the petitioners. This is being so done because of looking at the potentiality of the land. Still it is considered expedient to take lowest rate as were prevalent of the residential plots in the year 1981. Ex.A-11, suggests the land rates at the rate of Rs.135/- per sqmtr.

Where the date of execution of the lease deed is 7.8.1981 whereas the lease deed Ex.A-12 indicates the land rates at Rs.175/- per sqmtr.

The land rates of the petitioner's land are to be taken as Rs.135/- per Sqmtr. Of course development charges needs to be deducted as plots so given by the NOIDA authority to lessees were developed one. How much deduction should be made towards development is answered in AIR 1992 SC page 666 and also in the case titled Chander Versus Union of India in R.F.A. No.240/90 where in both the judgments 1/3rd of the market price of the land were directed to be deducted towards development of drains, electricity and other amenities which are in fact to plan layout for building colonies.

16. On the strength of this judgment 1/3rd of the price of the land is accordingly deducted whereby market value of the land of the petitioner would come to Rs.90/- per sqmtr.

Market value of the land of the petitioner is assessed at Rs.76.55 per sq.yrds. i.e. Rs.76,550/- per bigha. The issue is decided accordingly."

16. Learned counsel appearing for the respondent in Civil Appeal No.4204 of 2004 would furthermore draw our attention to the proceeding sheet dated 24.4.2006 to contend that despite orders passed by this Court, legal heirs of the respondents having not been brought to the record, the appeal must be held to have abated.

17. Learned counsel appearing on behalf of respondent in Civil Appeal No.2373 of 2006 would contend that village Chilla Saroda Khader being the subject matter of notification dated 21.7.1987, this Court may grant suitable enhancement.

18. A cluster of villages were sought to be acquired for the same purpose, namely, development of Delhi. The lands in question were basically agricultural lands. However, having regard to the fact that the Delhi Development Authority had sought to acquire the lands in phases beginning from 1976, it is possible that in the villages in question, some building activities had been going on.

19. On legal principle, there cannot be any doubt or dispute that when the nature of land sought to be acquired is different, the amount of compensation would be different keeping in view several factors, namely, the date of notification, the class of land sought to be acquired whether fully irrigated, number of annual crops or as to whether it was a land where no cultivation or vegetation is

done.

20. By reason of the notification a large number of persons were affected. Most of them, however, were satisfied with the amount of compensation received by them. Only 103 persons objected to the amount of compensation granted in their favour and filed claim petition pursuant to the notices issued to them under Sections 9 and 10 of the Act.

Only five of the aforementioned 103 claimants, namely, Ram Lal Dua, Shyam Parshad Mandal, Dharambir, Naresh Kumar Gupta and Smt. Praful Chandra had filed deeds of sale. Compensation was claimed ranging from Rs.25/- to Rs.1,000/- per square yard. The rate at which lands were sold in terms of the deeds of sale relied upon by some of the claimants in support of their claims ranged from Rs.3376/- to Rs.9970/- per bigha. The transactions in respect of all those lands indisputably were entered into after the aforementioned notification. However, keeping in view the facts and circumstances of this case and the materials brought on record, the Land Acquisition Collector opined that amount of compensation should be determined at the rate of Rs.8,000/- per bigha apart from the other amount payable to the claimants under the statute.

The learned reference court did not interfere with the said award, stating :

"All the six sale-deeds produced on record go to show that these are of different dates and the land in the same village was sold at Rs.8,000/- per bigha as is apparent from the judgment given by Shri Sahni, para 36 (Ex.R-7) and this is an indisputable fact that the said sales pertain to the almost same period."

21. It is in the aforementioned backdrop of events, the impugned judgments of the High Court may be considered. Indisputably, even in Ratan Lal whereupon reliance has been placed by the High Court, compensation at the rate of Rs.76.55 paise had been awarded by the reference court. It is only the High Court which had interfered therewith and determined the fair market value at Rs.345 per square yard.

Contention of the learned counsel that Ratan Lal has attained finality and no appeal had been preferred thereagainst does not appear to be correct.

Ratan Lal also came up for consideration before this Court and disposed of along with Bali Ram Sharma (supra).

22. Mr. Singh conceded that we may follow Karan Singh and Bali Ram Sharma. In view of Karan Singh and Bali Ram Sharma, we must proceed on the basis that the minimum amount of compensation which must be paid should be determined at Rs.76.55 p. per square yard. Lands situated in village Chilla Saroda Bangar and village Chilla Saroda Khader, however, appeared to be situated nearer Delhi as compared to Kondli, Gharoli and Dallupura.

23. Although it may be true that the villages in question are nearer Delhi as compared to Kondli, Gharoli and Dallupura but, as noticed hereinbefore, the High Court proceeded to determine the amount of compensation not on the basis of the development work carried out in Delhi but in NOIDA as those three villages are closer to NOIDA. The High Court had taken into consideration the development carried out in NOIDA, stating:

"As per the evidence on record, village Chilla- Saroda-Bangar, as on the date of notification under Section 4 of the Act was contiguous to the revenue estate of village Nayabans, which is in NOIDA and now comprises of Sector Nos. 14, 15 and 15A on one side and Mayur Vihar Samachar Apartments, Galaxo Apartments, Parvana Apartments, Indian Institute of Medical Sciences Apartments towards Northern side.

These colonies had already come into existence prior to 1980. All development work had been completed including laying of the roads.

Village Dallupura was adjoining the revenue estate of Chilla Saroda Bangar towards North East. Revenue estate of Jhilmil Tahirpur wherein were located industrial and residential areas was in close proximity towards North Western side with all civic amenities like electricity, road, transport, sewage, telephone and school available within revenue estate of Chilla Saroda Bangar as on the date of issuance of notification under Section 4 of the Act. This topography of village Chilla Saroda Bangar as is available on the file can also be co-related with the Eicher map wherein revenue estate of Chilla Saroda Bangar is shown located just touching Yamuna Marginal Band Road, namely, Najafgarh Road."

24. The fact that the lands acquired were capable of being developed cannot be disputed. But, as indicated hereinbefore, the Division Bench of the High Court proceeded on the basis that the colonies at NOIDA were already developed, the development having commenced prior to 1980.

The High Court did not stop there. It proceeded on the basis that the lands situated in village Dallupura are similar to the lands in question in respect whereof only in Ratan Lal the fair market

value was assessed at Rs.345/- per square yard in terms of a judgment dated 24.8.2001 since reported in [(2001) 94 DLT 378]. The High Court, in paragraph 18 of its judgment, found no difference in the location, situation, potentiality, advantage attached and other relevant factors between the lands in question and those acquired in village Dallupura and furthermore opined that there was no material or evidence brought on record even to contradict the stand of the appellant as regards benefits of the lands situated in village Chilla Saroda Bangar and the lands of village Dallupura but proceeded to ignore its own judgment in Karan Singh and Bali Ram Sharma wherefor no reason was assigned.

25. We, however, cannot ignore the fact that some construction activities had already started in the village in question by the DDA itself. Some amenities, although the village might not have been fully developed but road, electricity, water, sewerage were there, whereas the lands situated in Kondli and those others were agricultural lands. We, therefore, are of the opinion that keeping in view its proximity to Delhi, and as the appellant itself had conceded that the minimum compensation be calculated at the rate of Rs.76.55 per sq. yard, that the interest of justice shall be subserved if the market value is raised to 10% thereover.

Correspondingly, the other statutory benefits including interest must be awarded.

26. For the aforementioned purpose, we have also taken into consideration that appeals were otherwise barred by limitation and that is one of the factors, we must place on record, had weighed with us for determining the said amount.

27. In Civil Appeal No.2371 and 2374 of 2006 where notification was issued on 9.4.1971, 10% of the aforementioned amount shall be deducted whereas in respect of CA No.2373 of 2006 where notification has been issued on 21.7.1987, increase @ 10% per year shall be granted in preparing the final award.

28. So far as CA No.4204 of 2006 is concerned, as order dated 24.4.2006 had not been complied with, the legal heirs of the original respondent having not been brought on record, the said appeal must be held to have abated and is dismissed accordingly.

29. All the appeals except C.A. No. 4204 of 2006 are allowed in part on the above terms, i.e., paragraph 26, 28 and 29. In the facts and circumstances of this case, however, there shall be no order as to costs.