

SUPREME COURT OF INDIA

Union of India

Vs.

Dhiraj (Dead) Through LRs.

C.A.No.788 of 2006

(Asok Kumar Ganguly and Swatanter Kumar JJ.)

19.04.2011

JUDGMENT

SWATANTER KUMAR, J.

1. The present appeal is directed against the judgment of the High Court of Delhi at New Delhi, passed on 7th December, 2000, in RFA No.283 of 1995 where a Division Bench of the High Court partly allowed the appeal, filed under Section 54 of the Land Acquisition Act, 1894 (for short, the 'Act'), by the claimant (respondent herein). While enhancing the compensation awarded to the claimant, the High Court fixed it at ` 345/- per square yard. In addition to the enhanced market value, the claimant was also held entitled to the solatium at the rate of 30% and interest at the rate of 9% per annum for a period of one year from the date of the Collector taking the possession and thereafter at the rate of 15% per annum till the date of payment. The question of payment of interest on solatium was kept open subject to the decision of this Court in the reference pending at that time.

2. The pertinent facts of the present case are that a Notification under Section 4 of the Act was issued on 25th February, 1981 proposing to acquire considerable land situated in the Revenue Estate of Village Kondli, including the land which is the subject matter of the present appeal, for a public purpose, i.e. planned development of Delhi and at public expense. Declaration under Section 6 of the Act was made on 29th September, 1981. The Land Acquisition Collector, after following the due procedure of law, passed an award being award No.57/81-82 on 31st March, 1982 fixing the rate of compensation at ` 3,000/- per bigha. Dissatisfied with the compensation awarded, an application for reference under Section 18 of the Act was made to the Court of competent jurisdiction. The Reference Court answered

the reference partially in favour of the claimants and fixed the market value of the acquired land at the rate of ` 10,000/- per bigha for ab-pash land and ` 5,000/- per bigha for gair-ab-pash land. Still dissatisfied with the compensation awarded, the claimants preferred appeals before the High Court of Delhi. The Division Bench of the High Court which disposed of the appeal under consideration relied upon the judgment of another Division Bench of that Court (Devinder Gupta, J. being member to both the Benches) in the case of Anil Kumar Sharma v. Union of India [86 (2000) DLT 825] and further enhanced the compensation payable to the claimants to ` 345/- per square yard with the benefits aforementioned. The Union of India felt aggrieved by this judgment of the High Court enhancing the compensation granted to the claimants to the extent of ` 345/- per square yard and had filed the present appeal before this Court.

3. The only contention raised on behalf of the appellant is that the judgment of the Delhi High Court in the case of Anil Kumar Sharma (supra) was set aside by this Court in the case of Delhi Development Authority v. Bali Ram Sharma [(2004) 6 SCC 533] and the compensation of ` 345/- per square yard granted by the High Court in that case was reduced by this Court to ` 76,550/- per bigha and as such the compensation granted by the High Court in the present case is also liable to be reduced as being a case covered by the said judgment.

4. We may notice that despite service, nobody had appeared on behalf of the respondents and this appeal was heard in their absence.

5. If we are to accept the contention of the appellant it would be essential to discuss the pertinent facts and background of the judgment of this Court in Bali Ram Sharma's case (supra). Two notifications dated 17th November, 1980 and 25th February, 1981 were issued for acquisition of some land for public purpose. These notifications resulted in passing of two awards, namely awards Nos. 80/82-83 and 57/81-82 respectively. Upon a reference made to the Court of competent jurisdiction in relation to award No. 80/82-83, the compensation was enhanced to ` 76,500/- per bigha by the Reference Court. The correctness of the judgment of the Reference Court was questioned before the High Court of Delhi. The High Court disposed of the appeals in RFA Nos. 601, 603 and 604 of 1992 on 21st July, 2000 by a common judgment in Anil Kumar Sharma's case (supra) and enhanced the compensation to ` 345/- per square yard in addition to the other statutory benefits. Appeal by the Delhi Development Authority against this judgment of the High Court arising out of RFA No.604 of 1992, came to be allowed by this Court in Bali Ram Sharma's case (supra) where compensation was reduced to ` 76,550/- per bigha. Detailed reasons were recorded for setting aside the judgment of the High

Court. One of the main reasons recorded was that the High Court had failed to notice the judgment of this Court in the case of *Karan Singh v. Union of India* [(1997) 8 SCC 186] wherein a part of the land was acquired under the same notification.

6. As the present case is squarely covered by the judgment of this Court in *Bali Ram Sharma's case* (supra), we have no reasons to take any contrary view. While adopting the reasoning given by this Court in the cases of *Karan Singh* (supra) and *Bali Ram Sharma* (supra) with respect, we set aside the judgment of the High Court under appeal and partially allow the appeal filed by the Union of India reducing the compensation payable to the claimants to ` 76,550/- with 10% acceleration and other statutory benefits available to them under law. We may also notice that this Court in the case of *Sunder v. Union of India* [(2001) 7 SCC 211] has already held that the claimants would be entitled to interest on solatium and as this question was left open by the High Court, we also direct that the claimants shall be entitled to claim interest on the amount of solatium for the permissible period.

Accordingly, the appeal is partially allowed while leaving the parties to bear their own costs.