

SUPREME COURT OF INDIA

Jage Ram

Vs.

Union of India

C.A.No.5630 of 2017

(Dipak Misra,J., A.M.Khanwilkar and Mohan M.Shantanagoudar,JJ.,)

04.05.2017

JUDGMENT

Mohan M. Shantanagoudar,J.,

SLP(Civil) No.14272 of 2015

1. The appellants are owners of the land to an extent of ^ share in Khasra No. 46 (4-08), 462 (4-16), 463 (4-14), totally measuring 13 bighas 18 biswas situated in revenue estate of Village Roshan Pura, New Delhi. The land was acquired for the public purpose of construction of Sub-Divisional Office. The Land Acquisition Collector passed the Award bearing no. 45/78-79, awarding compensation at the rate of Rs. 2,200/- per bigha along with statutory benefits such as solatium, interest etc. as provided under the Land Acquisition Act, 1894.

2. The appellants, being dissatisfied with the quantum of compensation awarded by the Land Acquisition Collector, filed petition under Section 18 of the Land Acquisition Act. The said petition came to be dismissed by the Reference Court/Additional District Judge, Delhi on 04.10.2005 in LA Case No. 896 of 1993. The appellants further approached the High Court of Delhi by filing L.A.A.No.34/2006 and L.A.A.No.35-54/2006 which also came to be dismissed. The appellants are aggrieved by the award of the Land Acquisition Collector, Award passed by the Reference Court as well as by the judgment of the High Court.

3. Mr. Arvind K. Sharma, the learned counsel for the claimants/appellants submitted that the Reference Court as well as the High Court were not justified in ignoring the Sale Deed dated 24.01.1974 produced by the claimants in respect of the land measuring 4 bighas and 16 biswas situated adjoining Chhawla Gurgaon Road in village Roshan Pura, Delhi which depicts that the price per bigha was about Rs.7,000/-. According to him, though no relevant evidence is adduced by the parties including the claimants, the aforementioned certified copy of the sale deed could be sufficient evidence in support of the case of the claimants for getting higher compensation.

4. Per contra, Ms. Garima Prashad, learned counsel for the respondents argued that the Land Acquisition Collector has sufficiently compensated the claimants in respect of the acquired land therefore, the Reference Court as well as the High Court were justified in dismissing the contention of the claimants for enhanced compensation.

5. In the matter on hand, none of the parties have led oral evidence in support of their respective cases. However, certified copies of the two Sale Deeds are available on record which came to be produced by the parties before the Reference Court. The Sale Deed dated 24.01.1974 relied upon by the appellants depicts the price of one bigha of the property sold through the said sale deed was at Rs. 7,000/-, whereas the respondents relied upon the certified copy of Sale Deed dated 19.03.1971 which shows that the land therein was sold at the rate of Rs. 2,000/- per bigha under the said Sale Deed.

5. Though the Reference Court as well as the High Court have assigned valid reasons for not relying upon the Sale Deed dated 24.01.1974 relied upon by the claimants, have erred in ignoring to consider the Sale Deed dated 19.03.1971 produced by the respondents. The Reference Court as well as the High Court have merely observed, in the course of the judgment, that certified copy of such Sale Deed is produced by the respondents, but no further discussion was made as to why the said Sale Deed was not considered.

6. We do not want to burden this judgment by reiterating the reasons assigned by the Reference Court as well as the High Court while refusing to rely on the Sale Deed dated 24.01.1974 produced by the claimants particularly when we find that the courts have on facts justified in doing so. We also find that there is no evidence to show the similarity in location/situation of the acquired land vis-a-vis the land which is the subject matter of the Sale Deed dated 24.01.1974. Moreover, the land involved in the Sale Deed dated 24.01.1974 is relatively very small piece of land having dimension to the extent of 1/4th of the land in question. While awarding the compensation for the acquired land, the Court must take into account several factors including fertility, yield, nature of soil, comparative sale statistics, its present use, its capacity for the higher potential, the precise location, potentiality to use for non-agricultural purposes, the use to which the land was put, its' proximity to develop as urban area etc. etc. It is also to be borne in mind the special value which ought to be attached in respect of the special advantages, if any, possessed by the land. In the matter on hand unfortunately, no such evidence was let in by the claimants to show that the land covered under Sale Deed dated 24.01.1974 is having the similar characteristics as the land in question. Therefore, both the Courts below have rightly not relied upon the Sale Deed dated 24.01.1974 while coming to the conclusion.

7. Learned counsel for the appellants relied upon the judgment in the case of Suresh Prasad @ Hari Kishan & Ors. Vs. Union of India & Ors. (Civil Appeal No. 1726 of 2015 decided on 18.3.2015) wherein this Court has fixed compensation of Rs. 22,00,000/- (Rupees twenty two lakhs only) per acre in respect of the land acquired under Acquisition Notification issued on 5.8.2003. The land involved in the said matter was of village Masoodabad. The said judgment cannot be relied upon in the matter on hand, as much as, in the present matter, the

Notification issued was of the year 1973 and whereas the Notification issued in the case of Suresh Prasad was in the year 2003 i.e. almost 30 years later. Moreover, the land involved in the Suresh Prasad's case is situated in village Masoodabad which is stated to be about 5 K.Ms. far from village Roshan Pura wherein the land to be compensated is situated in this matter. In the case of Suresh Prasad, the Land Acquisition Collector had determined compensation of Rs.15.70 lakhs per acre and the same was enhanced to Rs.24 lakhs by this Court. The compensation determined in the case of Suresh Prasad was purely based on the facts of that case and there is nothing on record to show that the land involved in Suresh Prasad's case was having the same characteristics as the land in the present matter.

8. However, we do not find any reason to ignore the Sale Deed produced by the respondents in support of their case. As mentioned supra, the Sale Deed dated 19.03.1971 is in respect of 11 bighas and 10 biswas of land situated in the village Roshan Pura. As per the said Sale Deed, the price per bigha of the land involved therein would be about Rs. 2000/-. Prima facie, the land in question as well as the land covered under the Sale Deed dated 19.03.1971 are approximately having the similar dimension and are situated in the same village i.e. Roshan Pura. The respondents being the beneficiaries under the acquisition have themselves relied upon the Sale Deed dated 19.03.1971 as the sole basis to oppose the prayer of the claimants. Some sort of guess work is necessary while determining compensation for the land acquired. One has to perceive from the view point of the prudent purchaser. As the acquisition is of the year 1973, we do not wish to remit the matter to Reference Court. Having regard to the totality of the facts and circumstances of the matter, in our considered opinion, the compensation may be determined relying upon the Sale Deed dated 19.03.1971 particularly when there is no other reliable material on record. Since the land under the said Sale Deed dated 19.03.1971 was valued at a sum of Rs. 2,000/- per bigha, and as the land in question was acquired in the year 1973, the compensation can be determined by adding 15% of the value of the sale consideration per year keeping in mind the escalation in price of the lands day by day. Normally 15% escalation is taken, per year by this Court in recent times while quantifying compensation. Thus, the claimants would be entitled to Rs. 2,600/- per bigha.

9. Accordingly, these appeals are allowed. The compensation is enhanced from Rs. 2,200/- to Rs. 2,600/- per bigha. It is needless to state that the claimants are entitled to all the statutory benefits such as solatium, interest etc. in accordance with law.

10. There shall be no order as to costs.