

Pooja Rani @ Pooja Prabhakar Vs. Union of India and Anr.

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SooperKanoon Citation : sooperkanoon.com/26835

Court : Delhi

Decided On : Dec-19-2014

Judge : Sunil Gaur

Appellant : Pooja Rani @ Pooja Prabhakar

Respondent : Union of India and Anr.

Judgement :

\$~6 * IN THE HIGH COURT OF DELHI AT NEW DELHI + LA.APP. 405/2014
POOJA RANI @ POOJA PRABHAKAR Appellant Through: Mr. S.K. Rout and
Ms. Dimple Dhamija, Advocates versus UNION OF INDIA & ANR Through:
.....Respondents Mr. Yeeshu Jain, Advocate for respondent-UOI Mr. A.S. Rao,
Law Officer for respondent-DMRC CORAM: HON'BLE MR. JUSTICE SUNIL
GAUR

ORDER

1912.2014 % C.M.APPL. No.20840/2014 (for condonation of delay) There is delay
of 36 days in re-filing the accompanying appeal. Notice. Mr. Yeeshu Jain,
Advocate, accepts notice for respondent No.1UOI and Mr. A.S. Rao, Law Officer,
accepts notice for respondent No.2DMRC. The reason put forth for the delay
occasioned is that the time was consumed in arranging the court fee. The reason
put forth provides sufficient cause for the delay occasioned. The application is
allowed and the delay is condoned. The application is accordingly disposed of.
LA.APP. 405/2014 Page 1 C.M.APPL. No.20839/2014 (for condonation of delay)

There is delay of 40 days in filing the accompanying appeal. For the reasons stated in the application, it is allowed and the delay is condoned. The application is accordingly disposed of. LA.APP. 405/2014 Impugned judgment of 29th May, 2014 awards compensation @ `21,920/- per square meter to appellant in respect of acquisition of his land in Village Jhilmil, Tahirpur for construction of Shahdara-Dilshad Garden Corridor, of Delhi MRTS Project, Phase-II at G.T. Karnal Road, Shahdara, in pursuance of Notification of 12th April, 2006 under Section 4 of the Land Acquisition Act, 1894. Learned counsel for appellant submits that the sale instances i.e. Ex. PW-7/1, Ex. PW-7/2 & Ex. PW-7/3 have been noticed in the impugned judgment (in connected appeal i.e. LA (A) 406/2014) but have been illegally discarded by observing that they are not in proximity of the acquired land whereas as per the deposition of Mr. Vijay Kumar Kanungo-PW-10, the acquired land is touching the Mansarovar Park. Attention of this Court is also drawn to an Auction Sale of 200 sq. yards of a property in Chhota Bazar in Shahdara, which was auctioned for `40,25,000/-. Learned counsel for appellant points out that even the Collector in the Award in question has said that the acquired land is in commercial area and the compensation has been assessed by the Collector at Land and Development Office (L&DO) rates @ `6,450/- per square meter. It is LA.APP. 405/2014 Page 2 pointed out by learned counsel for appellant that the statutory benefits on the costs of structure have not been given and the deduction of 20% from the prescribed rate is unjustified on the face of it. Learned counsel for respondent draws the attention of this Court to decision of 16th October, 2014 by this Court in LA APP No.359/2014 and submits that the subject matter of this appeal is covered by the aforesaid order. This is disputed by learned counsel for appellant, who has drawn the attention of this Court to the discussion in the impugned judgment qua appellants document as noted in paragraph No.27 of the impugned judgment of 24th May, 2014 in connected appeal i.e. LA (A) 406/2014. Reliance is placed upon the sale instances Ex.PW-7/1, Ex.PW-7/2 & Ex.PW-7/3 to claim the enhanced compensation at `50,000/- per sq. meter. Upon hearing both the sides and on perusal of the impugned judgment and the material on record, this Court finds that the short point which arises in this appeal is whether the fate of this appeal is covered by the decision in LA APP. No.359/2014 titled Union of India v. Chandra Pratap Singh & Anr. decided by this Court on 16th October,

2014. Indisputably, the decision in LA APP. No.359/2014 relates to the acquisition of land of the village in question and the Notification under Section 4 of the Land Acquisition Act, 1894 is the same in this appeal as well as in LA APP. No.359/2014. The sale instances i.e. Ex.PW-7/1, Ex.PW-7/2 & Ex.PW-7/3 have been dealt in paragraphs No.54 to 56 of the impugned judgment in connected appeal i.e. LA (A) 406/2014. The maps i.e. aks shijra of the village in question and of the village pertaining to the sale instances relied upon have been duly considered by LA.APP. 405/2014 Page 3 the Reference Court in the impugned judgment and the deposition of the revenue officials has been also considered in the proper perspective. The evidence led by the parties has been dealt with in the impugned judgment by the Reference Court in the right perspective and thereafter, the Reference Court has rightly concluded that there is no proximity between the acquired land and the land in respect of the sale instances relied upon. Since the L&DO rates for acquired land in question are lesser than the minimum circle rates of the year 2007 for evaluation of the land and immovable properties in Delhi (which are relied upon by the Reference Court to determine the market value of the acquired land in question), therefore, I find that there is no scope for enhancement of the compensation already awarded to appellant. During the course of hearing, it was not shown as to what kind of structure was existing in the acquired land and therefore, compensation for the structure of the acquired land is rightly not granted in the Award or by the Reference Court. As the time gap between the issuance of the Notification under Section 4 of the Land Acquisition Act, 1894 and the circulation of the minimum circle rates in July, 2007, is of more than one year, therefore, deduction of 20% has been rightly made by the Reference Court. In the considered opinion of this Court, impugned judgment rightly assesses the fair market value of the acquired land in question. There is no illegality of infirmity in the impugned judgment. No case for further enhancement of compensation is made out as Reference Court has already enhanced the compensation from `6,450/- per square meter as awarded by the Collector to `21,920/- per square meter with statutory LA.APP. 405/2014 Page 4 benefits. This appeal is accordingly dismissed while leaving the parties to bear their own costs. (SUNIL GAUR) JUDGE DECEMBER19 2014 s LA.APP. 405/2014 Page 5