

State of U.P. and anr. Vs. Buddha Prakash Alias Buddhi Singh

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Court : Allahabad

Decided On : Feb-27-2004

Reported in : 2004(2)AWC1822

Judge : M. Katju and R.S. Tripathi, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 4, 18 and 23

Appeal No. : First Appeal No. 469 of 1992

Appellant : State of U.P. and anr.

Respondent : Buddha Prakash Alias Buddhi Singh

Advocate for Def. : Pankaj Mithal, Adv.

Advocate for Pet/Ap. : R.K. Shukla and ;S.S. Nigam, Advs. and ;B.R. Tripathi, ;C.S.C. , ;Rishi Ram, Adv. and ;Pankaj Rai, S.C.

Disposition : Appeal dismissed

Judgement :

M. Katju and R.S. Tripathi, JJ.

1. This appeal has been filed by the State Government against the impugned judgment of the IVth Additional District Judge, Bulandshahr in L.A.R. No. 43 of 1992, dated 23.3.1992.

2. Heard learned counsel for the parties.

3. The Special Land Acquisition Officer awarded compensation at the rate of Rs. 2 lacs per bigha but the court below increased it to Rs. 6 lacs per bigha. Against that judgment this appeal has been filed in this Court.

4. Learned standing counsel first urged that the respondent had accepted the compensation without protest. In this connection the finding of the court below is that the respondents had protested. This finding is on the basis of the evidence on record and in rebuttal no evidence has been adduced by the State. Moreover, it has been held by the Supreme Court in *Ajit Singh v. State of Punjab*, (1994) 4 SCC 67, (vide paragraph 5) that when an application for reference under Section 18 has been filed, it amounts to an implied protest against the award. Hence this submission of learned standing counsel has no merit.

5. The next submission of the learned standing counsel is that the compensation awarded has been increased exorbitantly because the finding of the court below is based on exemplar dated 3.2.1990 which values the property at Rs. 7 lacs per bigha. This exemplar is of adjoining land, and hence in our opinion was rightly relied upon. The land in question is within the Municipal limits of Bulandshahr, and hence was valuable land.

6. The court below after careful consideration of the entire evidence has fixed the rate of compensation at Rs. 6 lacs per bigha. D.W. 1 Ram Baran Giri, Amin in the office of the S.L.A.O., Bulandshahr stated on oath that the land in dispute is adjoining to the abadi of the town where a number of shops and houses are in existence. The S.L.A.O. in his award dated 25.10.1991 also observed that the land has great urban potentiality. In our opinion, the statements of the plaintiff's witnesses and a large number of sale deeds produced as exemplars amply justify the grant of Rs. 6 lacs per bigha as compensation. The land has potentiality for residential and commercial purposes. The exemplar dated 3.2.1990 was most appropriate and proximate to the time of acquisition.

7. Learned counsel submitted that the notification under Section 4 of the Land Acquisition Act was issued on 22.2.1990 whereas the exemplar is of 3.2.1990. In

our opinion the exemplar is only a few days prior to the notification under Section 4 of the Land Acquisition Act and hence it is an appropriate exemplar.

8. Thus, we find no merit in this appeal and it is dismissed.

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