

Dhani Ram and anr. Vs. Union of India (Uoi) and anr.

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SooperKanoon Citation : sooperkanoon.com/689498

Court : Delhi

Decided On : Apr-28-2004

Reported in : 111(2004)DLT449; 2004(75)DRJ44

Judge : Dalveer Bhandari and; R.C. Jain, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 4, 6, 18 and 23(1A)

Appeal No. : RFA No. 689 of 1999 and 426 of 2001

Appellant : Dhani Ram and anr.;union of India (Uoi) and anr.

Respondent : Union of India (Uoi) and anr.;bhim Singh and ors.

Advocate for Def. : S.S. Dalal, Adv, in RFA No. 426, 434 and 451/2001, ; Prabhat Kiran Adv. in RFA No. 689/1999, ;

Advocate for Pet/Ap. : C.L. Verma, Adv. in RFA No. 426 and 434/2001,; Prabhat Kiran Adv. in RFA No. 451/2001,;

Judgement :

R. C. Jain, J.

1. The land of the appellants situated in the revenue estate of village Sabhapur was acquired by the Government for construction of 'bund' vide Notification dated 3.5.1991 issued under Sections 4 and 6 of the [Land Acquisition Act, 1894](#), though

its possession had been taken about 10 years prior to the issuance of the said notifications. The land Acquisition Collector based on the Delhi Government order dated 3.5.1990 and treating the land of the appellants as riverbed land assessed the market value of the acquired land @ 31,250/- per bigha with other usual benefits. On reference under Section 18 of the Act, the learned Additional District Judge marginally enhanced the compensation by Rs.4687.50 per bigha by giving 15% escalation for a period of 1 year from the order of May 1990 and the issuance of the Notification in May 1991. In addition, the learned Additional District Judge also granted solarium @ 30% of the market value and interest @ 9% p.a. for the first year from the date of taking possession and thereafter @ 15% p.a. till the date of payment of excess amount. The appellants were also held to be entitled to additional amount @ 12% p.a. on the above market value from the date of Notification under Section 4 of the Act. Aggrieved by the said order the appellants have approached this Court in these appeals.

2. We have heard Mr. C. L. Verma, learned counsel representing the appellants and Mr. S. S. Dalal, learned counsel representing the respondent/UOI and have given our thoughtful consideration to their respective submissions.

3. Mr. C. L. Verma, Advocate, sought to assail the impugned order firstly on the ground that the Land Acquisition Collector and the Reference Court has erred in holding that the land of the appellants was river bed land within the meaning of Government order dated 3.5.1990 and consequently fixing the rate of agricultural land as the river bed land. Mr. Verma made a vain attempt to show that the land of the appellant was not a riverbed land and was an agricultural land. We are not prepared to accept this contention because the land of the appellants was acquired for the purpose of construction of 3rd forward bund at Yamuna river bed. This bund was constructed in order to reclaim some more river bed land from flood waters of Yamuna river. It is thus evident that the land of the appellants was not an agricultural land and it was a river bed land and, therefore, no fault can be found with the finding of the Land Acquisition Collector and the Reference Court at least on this score.

4. Mr. Verma has then invited our attention to a sales deed Ex. PW-1/D dated 3.3.1991 by which a piece of land measuring 1 Bigha, out of Khasra No. 608, situated in the revenue estate of Village Sabhapur, Shahdara, Delhi was sold by one Shri Bhikari and Ors in favor of Smt. Richa Jain for a consideration of Rs.98,000/- and claimed that the appellants are also entitled to compensation at the same rate. However, during the course of hearing, the concerned Revenue Officer of Revenue Department made it clear that the distance between this piece of sold land and the land of the appellants which was acquired by the Government was about two kilometers. We are, therefore, not prepared to accept the value exhibited in this sale deed as the market value for the land of the appellants' land which was acquired by the Government. In any case it appears to us that this land was purchased by the vendee for construction/development purposes, while the land of the appellant which was in the river bed has been acquired by the Government for the construction of a bund.

5. Mr. Verma, Advocate, has then lastly urged that irrespective of the fact whether the land of the appellant is agricultural land or riverbed land, appellant should at least be granted compensation on the basis of a decision of this Court in RFA No. 545/93 titled as Mangal Singh & Ors. v. UOI decided on 18.3.2004 wherein this Court has granted compensation @ Rs. 27,000/- per bigha for the land of the same village which of course was acquired in the year 1983 and he claimed that escalation @ 12% be granted for the period of eight years over this amount of Rs. 27,000/- per bigha. In our opinion in absence of any cogent evidence about market value of the land, the judgment of this Court in RFA No. 545/93 would form a sound basis for assessing the fair market value of the land of the appellants. On the other hand Mr. S. S. Dalal, Advocate, has vehemently urged that the grant of escalation @ 12% p.a. is not a hard and fast rule or a settled principal which can be uniformly applied in all cases. It is true that no hard and fast principal can be laid down for assessing the rate of escalation per annum but in the case of Bedi Ram v. Union of India decided on 23.3.2001, this Court has observed that it would be reasonable to grant progressive escalation @ 6% p.a. from the period 1959 to 1965 and @ 10% p.a. from 1965 to 1973 and thereafter @ 12% p.a.

6. Having regard to the facts and circumstances of the case that the land of the appellants was acquired in the year 1991 and that he would not be entitled to any compensation/mitigation for the period from 1982 to 1991 when the possession of the land was taken over by the Government prior to acquisition, we are of the opinion that it would adequately meet the ends of justice, if we grant escalation @ 12% p.a. on a sum of Rs. 27,000/- from 1983 to 1991 which would bring the compensation @ Rs. 52,920/- per bigha.

7. Now coming to the appeals filed by the Union of India i.e. RFA Nos. 689/1999, 804/2002 and RFA No. 805/2002, Mr. C. L. Verma has fairly conceded that in terms of the judgment of the Supreme Court in Civil appeal No. 5515/97 titled as of R. L. Jain (deceased) by LRs. v. DDA & Ors decided on 12.3.2004, the land owners are not entitled to any interest for the period from the date of taking over possession of the land uptill the date of notification and they would only be entitled to the interest @ 9%p.a. from the date of notification under Section 4 and 6 e.g. from 3.5.1991 for a period of one year and thereafter for a period at the rate of 12% p.a. In this view of the matter the appeal filed by the Union of India is bound to succeed and this part of the order of the learned District Judge granting interest for any period prior to the date of the issuance of the notifications under Sections 4 and 6 is liable to be set aside.

8. In the result RFA Nos. 426/2001, 434/2001 and RFA No. 451/2001 are partly allowed. While the appeal filed by the Union of India i.e. RFA Nos. 689/1999, 804/2002 and 805/2002 are also allowed. Appellants in appeal Nos. 426/2001, 434/2001 and RFA No. 451/2001 are entitled to compensation @ Rs. 52,920/- per bigha. Appellants are also entitled to solarium @ 30% of the market value and interest @ 9% p.a. for the first year from the date of notifications under Sections 4 and 6 and, thereafter, @ 15% p.a. till the date of payment of excess amount which means the amount increased by enhancement vide this judgment. The petitioners shall also be entitled to additional amount under Section 23(1-A) at the rate of 12% p.a. on the above market value from the date of notification under section 4 of the Act or the date of announcement of the award or whichever is earlier. There will be no order as to costs.

