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Court : Delhi

Decided On : Aug-07-1990

Reported in : 44(1991)DLT637

Judge : S.B. Wad and; Usha Mehra, JJ.

Acts : Land Acquisition Act, 1894 - Sections 4

Appeal No. : Regular First Appeal No. 296 of 1975

Appellant : Jai Dev and anr.

Respondent : Union of India

Advocate for Pet/Ap. : V.P. Singh,; N.S. Vashisth,; Sanjay Lamba and;

Judgement :

Usha Mehra, J.

(1) The appellant's land measuring 8 bigha 19 bids was situated in Revenue Estate of Village Chaukhandi was acquired vide Notification dated November 13,1959 under Section 4 of the Land Acquisition Act 1894 (hereinafter called 'the Act'). The notification containing the declaration of intended acquisition under Section 6 of the said Act was made on October 8, 1955. The Award given by the Land Acquisition Collector bearing No. 1955 of Village Chaukhandi dated March 2, i967, classified the whole land into two blocks i.e. A and B. For block A

compensation allowed was at the rate of' Rs. 3000/. per bigha and for block B at the rate of Rs. 1000.00 per bigha. The land of the appellant fell in block A as well as in block B. However, on a reference having been made to the Additional District Judge under Section 18 of the Act, Shri C.D. Vasishta, Additional District Judge, Delhi vide his award/ decree dated 30th May, 1975 enhanced the compensation from Rs. 3.000.00 per bigha to Rs. 10,000.00 per bigha for the land in block A and from Rs. l,000.00 per bigha to Rs. 6,000.00 per bigha for the land. in block B.

(2) In this appeal appellant contended that the Learned Additional District Judge ignored the vital evidence with regard to the market value of the land. He has arbitrarily relied on the judgment marked Ex. A-4. The land in Ex. A-4 was situated in the Revenue Estate of Village Tihar, which is farther away from the land in question as such lower value of the land was assessed there. He further contended that the area of the land in the judgment Ex. A-4 was about 150 bighas hence value of the land was evaluated at the rate of Rs. 10,000.00 per bigha. Whereas in the case of the appellant the land acquired is only three bighas which is a small plot and, thereforee, would fetch higher rate at the rate of Rs. 25-000.00 per bigha i.e. Rs. 15,000.00 per bigha for land falling in block A and Rs. 9,000.00 per bigha for land falling in block B, over and above the award, of the Lt. Addl. District Judge.

(3) The judgment in Ex. A-4 pertains to the case of Raj Gopal v. Union of India & Another, decided by this Court in R.F.A. No. 393/68 on 18th March, 1974 and the judgment in Ex. Appertains to the same award in question and relates to the same village. This is with regard to the case of Chef Ram Vasisht & Ors. v. Union of India, in R.F.A. No. 163 of 1972. Chet Ram in R.F.A. No. 163/72 has claimed the enhancement at the rate of Rs. 15.00 per sq.yard or Rs. 15,000.00 per bigha of the land falling in block 'A'. The appellant in this appeal has claimed the compensation at the rate ofRs,15.000.00 per bigha for block 'A' and Rs. 9,000.00 per bigha for block 'B'. It must be stated that the appellant has not cited any instance in support of his claim for Rs. 25,000.00 per bigha for the whole of the land acquired under Award No. 1955. There is no decision either of this Court or of any other Court cited in regard to this village raising the compensation to Rs. 25,000.00 per bigha or Rs. 9,000.00 per bigha for the land falling in block 'B'. We

are, thereforee, required to consider only the instances referred to in the Award/Decree of the learned Addl. District Judge, Delhi.

(4) The learned Addl. District Judge while awarding the amount has placed reliance on the judgment in Ex. A-3 & Ex. A-4 i.e. the case of Chet Ram Vasisht & Ors. v. U.O.I. ThejudgmentofEx.A-2is in the case of Raj Gopal v. U.O.I. & Another but of a different village. The judgment in Ex. A-3 pertains to the same village Chaukhandi. Vide our separate judgment in R.F.A. No. 163 of 1972 we have already enhanced the compensation in the case of Chet Ram Vasisht & Other v. Union of India to Rs. 15,000.00 per bigha of the land falling in Block 'A'. We are conscious of the fact that in Chet Ram's case, his whole land fell only in Block 'A'. But while dealing this case, we have taken into consideration the village as a whole and not the category of blocks, which is done in the case of small plots. thereforee, taking into consideration the village as a whole, we find that there is not much difference in the potential value of the land falling in category in Block 'A' and in category in Block 'B'. The counsel for the respondent has not been able to point out that the land falling in category in block 'B' is inferior in any manner in potential value, if the land in Raj Gopal's case which pertains to the Revenue Estate of Tihar could be awarded compensation at the rate of Rs. 10,000.00 per bigha, there is no reason, why the whole land o.f the appellant which fell in the Revenue Estate of Chaukhandi,which is in close proximity of the developed colony of Tilak Nagar, Shyama Pershad Mukherji Park and Ganga Ram Vatika be not awarded compensation at the rate of Rs. 15,000.00 per bigha of both the categories of land falling in Block 'A' and Block 'B'.

(5) We, accordingly hold that the appellant is entitled to compensation @ Rs. 15,000.00 per bigha (as claimed by them) of his whole land instead of Rs. 10,000.00 per bigha and Rs. 6,000.00 per bigha respectively awarded by the learned Addl. District Judge. He is also entitled to solarium at the rate of.l5% on the enhanced amount and interest at the rate of 6% per annum, on the enhanced amount of compensation from the date when the possession of his land was taken till the date of payment.

(6) The enhanced amount of compensation shall be payable only after the payment of additional Court fee by the appellant.

(7) The appeal with the above observation is allowed with costs. Bank guarantees if any shall stand discharged.

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