

Murti Devi Vs. Union of India

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Court : Delhi

Decided On : Jan-25-1991

Reported in : 45(1991)DLT18

Judge : Usha Mehra, J.

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

Appeal No. : Regular First Appeal No. 318 of 1970

Appellant : Murti Devi

Respondent : Union of India

Advocate for Pet/Ap. : D.K. Sharma,; Manmohan Gupta and; B.S. Mathur, Advs

Judgement :

Usha Mehra, J.

(1) Delhi Administration vide Notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter called the Act) dated 24th May, 1961 acquired the land of the appellant's falling in Khasra No. 324 (1 bigha 18 biswas), 316 (2 bighas and 19 biswas), 322 (4 bighas 12 biswas), 352 (5 bighas 1 biswas), 353 (1 bigha 35 biswas), 354 (6 biswas), 364/1 f4 bighas 14 biswas), 361 (15 biswas), 362 (8 bighas 14 biswas) measuring in all 30 bighas and 14 biswas. This was land of the first category. The other land which was acquired fell in Kh. No. 321 C5

bighas 4 biswas) and 345 (1 bigha 14 biswas) in all 6 bighas 18 bids was land of second category. Kb. No. 327 (1 bigha 2 biswas) 328 (1 bigha 2 biswas) and 330 (2 bighas 19 biswas) in all 5 bighas and 3 bids was called the land of third category. Khasra No. 334 (3,bighas 1 biswas) 181 (6 bighas 18 biswas) and 323 (1 bigha 18 biswas) in all 11 bighas and 17 bids was land of fourth category situated in the revenue estate of village Masjid Moth was acquired. This land was acquired for public purpose i.e. for the planned development of Delhi The Collector announced his Award No. 1268 on 7th March, 1962 thereby awarded the compensation @ Rs. 3,000.00 per bigha.

(2) Aggrieved by the award, the petitioner made the reference under Section 18 of the Act. The learned Additional District Judge vide his judgment dated 27th January. 1970 answered the reference by dismissing the reference qua the land comprised in Kh. No. 352. 353. 354, 361, 362 and 364/1 but enhanced the compensation in respect of Kh. No.181, 334, 330, 316, 327, 328, 345 & 321 by fixing the market value of the land at Rs. 1500.00 per bigha. So far as the petitioner was concerned, his market value of the land was fixed at Rs 1,000.00 in respect of Kh. No. 322, 323 & 324.

(3) Aggrieved by the judgment of the learned Additional District Judge present appeal has been preferred by the appellant inter alias on the ground that the land of the appellant situated in Kh. No. 352, 353, 354, 361, 362 & 364/1 was contiguous to the land falling in Kh. No. 322, 323 &324. According to her there was no justification to dismiss the reference qua Kh. No. 352, 333, 361 362 and 364/1. All these lands are nearer Shahpur Jat whereas the land falling in Kh. No. 361, 312, 364 is towards east facing towards Mubarakpur Kotla and the kind of soil described by the Land Acquisition Collector regarding all these khasras was that of 'Chahi'. So far as the Land Acquisition Collector is concerned, he did not draw any destination between the land falling in Kh. No 324 or that of 352, 353, 361, 362 & 374/1.

(4) We have perused the evidence produced before the learned Addl. District Judge as well as Akshajra and other material placed on record, we find force in the submission of the leaned counsel for the appellant, Shri M.C. Gupta, that there

was no ground for the learned Addl. District Judge to reject the reference qua the land falling in Kh. No. 352, 353, 354, 361, 362 & 364/1. There is in fact no reason to draw distinction between the land falling in Kh NO. 322, 323, & 324 & Khasra No. 352, 353, 354, 361, 362 and 364/1. This Court has held in number of cases that village has to be taken as a unit and whole. The nearness and farther from the puce or kuchha road should not be the only factor, there are other factors which have to be considered. The reason assigned for rejecting the reference that the land falling in Kh. No. 352 353 were quite contiguous to land covered under judgment Ex. R-7 appears 'to be erroneous because in the judgment referred to as Ex. R. 7 it indicated that the land was near Shahpur Jat. If that be the criteria, then the land falling in Khasra No. 321 & 322 also are quite contiguous to the land falling in Shahpur Jat as per the Akshajra Ex. R. 8.

(5) After having decided that the appellant is entitled to compensation for all the lands falling in different khasra numbers, the question for consideration is what amount of compensation is she entitled to The learned Addl. District Judge has mostly relied on Ex. R. 6 & Ex. R. 7. We are afraid that these judgments were dealing with the lands situated in the revenue estate of Shahpur Jat, whereas the land falling in revenue estate of Masjid Moth are covered by the judgment Ex. R. 4 & Hx. R. 5 where the compensation awarded was Rs. 4,500.00 per bigha, for a field of land bearing No. 210 which appears to be contiguous to the land of the appellant in question. Similarly, in the judgment Ex. R. 5, the learned Addl. District Judge was dealing with a land falling in revenue estate of village Masjid Moth and awarded compensation @ Rs 4,500.00 per bigha.

(6) This Court was called upon to determine the market value of the land falling in the revenue estate of village Masjid Moth in R.F A No 202/69 in Re : Pt. Pushkar Datt and others v. Union of India. This Court after con- side ring the evidence available on record enhanced the compensation to Rs. 15,000.00 per bigha. The land in R.F.A. 202/69 fell in Khasras No.249,253, 254, 550/247, 549/247 & 551 which are of the same revenue estate. As observed earlier since we are dealing the village as a whole, thereforee, it will be in the interest of justice that the present appellant whose land also fell in the revenue estate of village Masjid Moth, her land's market value be also assessed at Rs.12,000.00 perbigha and be awarded

the same compensation in this case We accordingly assess the market value of the land of the appellant at Rs. 12.00 per sq. yard. The appellant would be entitled to proportionate increase in the solarium and interest on the enhanced compensation from the date of the government took possession till the date of payment. The appellant would also be entitled to proportionate costs throughout. The appeal is allowed in terms of the above order.

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