

Vimal Kumar Sharma Vs. Union of India (Uoi) and anr.

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Court : Delhi

Decided On : Mar-04-2002

Reported in : 98(2002)DLT24

Judge : Devinder Gupta and; S. Mukherjee, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 4, 6 and 23(1A); Land Acquisition (Amendment) Bill, 1982

Appeal No. : RFA No. 517 of 1995

Appellant : Vimal Kumar Sharma

Respondent : Union of India (Uoi) and anr.

Advocate for Def. : Geeta Luthra, Adv.

Advocate for Pet/Ap. : Om Prakash, Adv

Disposition : Appeal allowed

Judgement :

Devinder Gupta, J.

Heard.

1. With the consent of the parties, appeal has been taken up today for hearing,

2. Appellant's land situate in village Pul Pehlad, Mehrauli, New Delhi was acquired pursuant to Notification issued under Section 4 of the Land Acquisition Act (hereinafter referred to as the 'Act') dated 23.1.1965. Declaration was made under Section 6 of the Act on 13.1.1969. The Collector, Land Acquisition made his Award No. 63/82-83 on 31.1.1983 and offered compensation @ Rs. 4,000/- per bigha. Feeling dissatisfied, reference petition seeking determination of the amount of compensation was filed. Reference was forwarded to the Court. By the impugned award dated 1.9.1994, the Reference Court assessed the market value of the acquired land @ Rs. 9,000/- per bigha. Still, feeling dissatisfied, this appeal has been preferred claiming that the market value ought to have been assessed at Rs.50,000/- per bigha.

3. Our attention has been drawn to the decision of this Court in Hamdard Dawakhana (WAQF) v. Union of India, RFA No, 438/1979 decided on 27.9.2001. By the said decision, fair market value of the land situate within the same village Pul Pehlad was assessed @ Rs. 40,000/- per bigha, which was also acquired by the same Notification dated 23.1.1965 for the same public purpose. Declaration was also made on the same date. However the Collector, Land Acquisition in the said case had made separate Award No. 77/1970-71 and had offered compensation @ Rs. 2,300/- per bigha whereas in the instant case in his award made on a later date higher compensation was offered to the appellant. As regards potentiality for the land for being utilised for construction purposes, there is ample evidence on record. Appellants land was offered higher compensation since it was better located vis--vis the land in Hamdard Dawakhana (Waqf)'s case. As such the appellant is claiming higher amount than assessed by the decision in Hamdard Dawakhana (Waqf)'s case, However we are of the view that in the matter of payment of compensation when land situate within the same revenue estate and was acquired under the same notification for same public purpose, there should be parity in payment of compensation. There is not much difference in the situation and location of both the lands. As such, we hold that the appellants are not entitled to compensation at a higher rate than the one at which it was assessed in Hamdard Dawakhana (Waqf)'s case (supra).

4. In view of the fact that the Collector made his award after introduction of the Land Acquisition (Amendment) Bill, 1982, in view of the decision of the Supreme Court in : AIR 1995 SC1012 , K.S. Paripooran v. State of Kerala, the appellant is entitled to additional amount under Section 23(1-A) of the Act.

5. Consequently, the appeal is allowed. The appellant is held entitled to compensation @ Rs.40,000/- per bigha. Over and above, the enhanced market value the appellant will be paid solarium at 30% and interest @ 9% per annum for a period of one year from the date of the Collector taking possession and thereafter @ 15% p.a. till payment. The appellant will also be paid additional amount on the market value under Section 23(1-A) of the Act @ 12% p.a. from the date of issuance of Notification under Section 4 of the Act, till date of possession or the award of the Collector whichever is earlier.

The appellant will also be paid 6% interest under Section 4(3) of the Land Acquisition (Amendment and Validation Act), 1967 on the market value of the land, as determined by this Court from the date of expiry of period of three years of the date of Notification under Section 4(1) of the Act to the date of tender of compensation awarded by the Collector. Interest will also be paid to the claimant on solarium and additional amount, in view of decision of the Supreme Court in Civil Appeal No. 6271/1998, Sunder v. Union of India and Ors., decided on 19.9.2001.

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