

Chameli Devi and ors. Vs. Union of India

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Court : Delhi

Decided On : Jul-17-1995

Reported in : 1995(34)DRJ457

Judge : D.P. Wadhwa and; M.K. Sharma, JJ.

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

Appeal No. : Regular First Appeal No. 243 of 1975

Appellant : Chameli Devi and ors.

Respondent : Union of India

Advocate for Pet/Ap. : B.I. Singh and; Sudha Srivastava, Advs

Judgement :

M.K. Sharma, J.

(1) This is an appeal under Section 54 of the [Land Acquisition Act, 1894](#) (hereinafter referred to as the Act) against the award dated 2.5.1975 in Lac No.432/1971 passed by Shri O.N.Vohra, Additional District Judge, Delhi determining the amount of compensation payable to the appellant/claimant for his land at Village Khyala, acquired for the public purposes namely - 'Execution of Interim General Plan for Greater Delhi'. Notification under Section 4 of the Act was issued on 3.9.1957 and notification under section 6 was issued on 26.6.1961. By

the aforesaid notification under section 4 of the act a total land measuring 1095 bighas and 16 bids was situated in Village Khyala was acquired. The Land Acquisition Collector relying on an earlier award being award No.1092 relating to the same village divided the lands into 4 categories and determined the compensation @ Rs.600.00 , Rs.400.00 , Rs.300.00 and Rs.200.00 per bigha.

(2) On reference the Additional District Judge through the impugned award enhanced the compensation amount and determined compensation at Rs.2,500.00 per bigha for Sailabi land or land lying in the form of pits, and at Rs.3,000.00 per bigha for Chahi, Rosli and Banjar lands. Being aggrieved by the aforesaid award passed by the learned Additional District Judge the present appeal has been preferred by the appellant/ claimant.

(3) Subsequent to the filing of aforesaid appeal and admission of the said appeal by this court, an application under Order 6 Rule 17 Civil Procedure Code read with Section 151 Civil Procedure Code was preferred by the appellant/claimant praying for amendment of the claim made in the appeal. This court by order dated 24.3.1988 following the law laid down by the Supreme Court in Harcharan Singh Vs . State of Haryana; : AIR 1983 SC43 and as applied by this court in several similar cases, allowed the prayer for amendment of the appellant/claimant. Accordingly, the appellant/claimant now, after the amendment, claims in this appeal an amount of Rs.12,000.00 per bigha for his land acquired under the aforesaid notification.

(4) The learned counsel appearing for the appellant drew our attention to a decision of this court in the case of Priyavart and Others v. Union of India; (R.F.A.s 208/1975, 210/1975 and 213/1975 disposed of on 16.9.1994). In the aforesaid appeal this court considered determination of just and fair compensation for lands covered by the notification issued under Section 4 of the Land Acquisition Act on 3.9.1957 of lands situated in Village Khayala, Delhi, which was also acquired for interim general plan for greater Delhi. This-court on consideration of evidence and records determined compensation @ Rs.10,000.00 per bigha for the land acquired under the said notification as just and reasonable. It has also been brought to our notice that the lands involved in the aforesaid R.F.A.S 208/1975, 210/1975 and

213/1975 was the subject matter of the award of the present case namely-Award No-1092.

(5) We have heard the learned counsel appearing for the respondents and also carefully perused the judgment and order passed in the Priyavart case (supra). In our opinion, since the lands involved in the present appeal and that of the Rfa 208/1975, 210/1975 and 213/1975 were acquired by the same notification and was the subject matter of the same award and also in view of the fact that both the lands are situated in the same village namely - Khyala, we consider it just and appropriate to hold that the appellant/claimant in the present 'case also is entitled to compensation @ Rs.10,000.00 per bigha besides solarium at 15% and interest at 6% per annum from the date of dispossession till payment on enhanced amount with proportionate costs. In our considered opinion, for lands acquired by the same notification and subject matter of the same award, compensation should be determined at the same rate unless a distinguishing feature with regard to potential value or relative advantage/ disadvantage is brought to our notice. In the present case, no such distinguishing factor could be brought to our notice by the counsel for the respondents.

(6) In the result, we allow the appeal to the extent indicated above and hold that the appellant/claimant is entitled to compensation for acquisition of his land at market rate of Rs.10,000.00 per bigha irrespective of classification of land. The appellant/ claimant shall also be entitled to solarium at 15% and interest at 6% per annum from the date of dispossession till payment on the enhanced amount with proportionate costs.

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