

Delhi High Court Bedi Ram vs Union Of India And Another on 23 March, 2001
 Equivalent citations: 93 (2001) DLT 150, 2001 (60) DRJ 169 Author: D Gupta
 Bench: D Gupta, M Mudgal ORDER Devinder Gupta, J. 1. These appeals have
 been preferred under Section 54 of the Land Acquisition Act, 1894 (hereinafter
 referred to as “the Act”) seeking determination of the amount of compensation
 payable to the claimants whose lands situate in village Kondli, Delhi were ac-
 quired through two separate notifications issued under Section 4(1) of the Act
 on 8.2.1973 and 19.8.1976. 2. Under the general notification issued under sub-
 section (1) of Section 4 of the Act, on 13.11.1959 considerable land situate at
 village Kondli, Delhi was acquired for public purpose, namely, Planned Devel-
 opment of Delhi. Land was also acquired for Planned Development of Delhi
 in the adjoining villages, Dallupura, Mandaoli Fazalpur, Karkardoma, Khureji-
 Khas, Khichripur, Ghazipur etc. In RFA No. 128/82 (Om Prakash v. Union
 of India) decided on 11.4.1991 by this Court for village Kondli the claimants
 whose land were acquired through notification issued under Section 4(1) of the
 Act on 13.11.1959 were held entitled to compensation at the rate of Rs. 8064/-
 per bigha irrespective of the classification of land. 3. For the lands situate at
 village Chilla Saroda Bangar acquired through notification dated 13.11.1959,
 compensation was finally determined by this court also at Rs. 8,064/- per bigha
 in RFA No. 250/94 (Babu Ram Sharma and others v. Union of India) decided
 on 12.9.1996. 4. For the acquisition of land in village Dallupura, which took
 place through notification dated 13.11.1959, compensation was assessed by this
 Court also at Rs. 8,064/- per bigha in RFA No. 128/82 (Om Prakash v. Union
 of India) decided on 11.4.1991. 5. Land situation at village Madaoli Fazalpur
 was also acquired through notification dated 13.11.1959 for the same public pur-
 pose. Compensation was assessed at Rs. 8064/- per bigha in RFA No. 311/74 (Kes-
 ho Dass v. Union of India) . The land situate at village Khichripur acquired
 through notification dated 13.11.1959 was assessed at Rs. 8,000/- per bigha in
 Manotoo @ Mangoo v. Union of India and others 6. Thus it will be noticed
 that market rate assessed for all revenue estates located adjacent to each other
 was almost same and similar as on 13.11.1959. 7. In so far as village Kondli
 is concerned, compensation assessed for the acquisition, which took place on
 13.11.1959 was at the rate of Rs. 8064/- per bigha for all categories of land on
 the basis of the amount of compensation assessed for village Dallupura holding
 that there was no difference in location, potentiality and other relevant factors.
 As regards the land situate at villages Kondli and Dallupura, award of com-
 pensation at the rate of Rs. 8064/- per bigha has since been reaffirmed by this
 Court in M/s. Delhi Housing and Land Development Corporation v. Union
 of India RFA No. 66/2000, decided on 25.1.2001. 8. For the land situated in
 village Gharauli acquired through notification dated 19.8.1976 compen-
 sation was assessed at Rs. 12,000/- per bigha in RFA No. 127/86 (Phira Ram
 and other v. Union of India) decided on 1.8.1994. For the acquisition, which
 took place on 17.11.1994. For the acquisition, which took place on 17.11.1980,
 compensation was assessed at the rate of Rs. 76,550/- per bigha in Karan Singh
 and others v. Union of India . The later judgment was affirmed by the Supreme
 Court in Karan Singh and others v. Union of India 68(1997) DLT 900 (SC).

9. Subsequent to the acquisition, which took place on 13.11.1959 of land in village Kondli, more land situate at village Kondli was acquired by two other notification, first of which was issued under sub-section (1) of Section 4 of the Act on 8.2.1973. Collector Land Acquisition made his first award No.2/78-79 on 8.5.1978. Supplementary award No.2-A/78-79 was made subsequently. In both the awards the Collector classified the lands in category A, B and C and fixed the market value at the rate of Rs. 2100/-, Rs. 1100/- and Rs. 600/- per bigha respectively. Feeling dissatisfied with the amount of compensation, the claimants sought reference under Section 18 of the Act for determination of the amount of compensation. The Reference Court in all cases except two, held the fair market value of the three categories of land at Rs. 4,500/-, Rs. 3,000/- and Rs. 2,200/- per bigha respectively. However, in two cases, which have given rise to RFA No. 383 and 391 of 2000, the Reference Court held the fair market value of all categories of land situate at village Kondli acquired through notification dated 8.2.1973 to be Rs. 20,885/- per bigha. Dissatisfied with the determination of the amount of compensation offered in the last two cases i.e. RFA 383/2000 and 391/2000. Union of India has filed appeals for reduction in the amount of compensation. In other cases the claimants have preferred appeals seeking further enhancement in the amount of compensation. Cross objections have also been filed by the claimants in RFA No. 391/2000. 10. In the next acquisition 325 bigha 11 biswa of land situate at village Kondli was sought to be acquired for which notifications under Sections 4, 6 and 17 were issued on 19.8.1976. Purpose of acquisition in this case was establishment of "Dairy Colony" in Shahdara by Municipal Corporation of Delhi. Collector Land Acquisition on 22.5.1979 made his award No. 4/79-80 offering compensation at the rate of Rs. 1550/- per bigha for all categories of land except uneven land for which market value was assessed at Rs. 500/- per bigha. Feeling dissatisfied, the claimants sought reference and the Reference Court assessed the market value at Rs. 9,400/- per bigha for all categories of land. Still feeling dissatisfied the claimants have sought further enhancement in the amount of compensation whereas few appeals have been preferred by Union of India seeking reduction in the amount of compensation. 11. In the aforementioned back ground, learned counsel for the parties made their respective submissions. 12. Acquisition of land took place in village Kondli firstly by notification dated 13.11.1959. More land was acquired subsequently by notifications issued under Section 4(1) of the Act on 8.2.1973 followed by the third notification issued on 19.8.1973 followed by the third notification issued on 19.8.1976. Later acquisition of the remaining land took place by two other notifications issued on 17.11.1980 and 25.2.1981 respectively. 13. For the subsequent acquisition, which took place in village Kondli for Planned Development of Delhi through the two notifications issued under Section 4(1) of the Act on 17.12.1980 and 25.2.1991, this Court in Anil Kumar Sharma v. Union of India has held the fair market value at Rs. 345/- per sq.yard. 14. On behalf of the claimants, it was urged that since there has been acquisition earlier and subsequent to the notifications in question, the best way to arrive at a fair market value would be to allow an increase of 12 to 15 per cent per annum over and

above the market value determined on 13.11.1959 keeping in view the legislative mandate, namely, Section 23(1-A) of the Act. On behalf of Union of India, it was urged that enhancement cannot be allowed at an uniform rate of 12% p.a. or of 12% to 15% p.a. This increase of 12% p.a. or 12% to 15% p.a. may be permissible increase in the market value but only for the period subsequent of amendment, which were carried on in the Land Acquisition (amendment) Act, 1984. For the earlier period enhancement, if any, cannot be allowed beyond 6% p.a. 15. In *M/s. D.L.F. Housing and Construction (P) Ltd. F Block, Connaught Place, New Delhi v. Union of India* 1967 Punjab 325 while determining the amount of compensation for acquisition of land, which took place in 1957, upward market trend of the prices of land was noticed saying that it is a matter of common knowledge that prices of land in Delhi have jumped by leaps and bounds progressively since 1950 onwards. 16. In *Jai Narain and others v. Union of India* taking judicial notice of the rising trend of prices in and around Delhi and an impact of the colonies and housing schemes of the Ministry of Works, Housing and Supply, an increase at the rate of Rs. 1,000/- p.a. was allowed for subsequent acquisition over and above the amount of market value fixed in the earlier acquisition. 17. In *Prakash Chand Kashyap v. Union of India* AIR 1988 Delhi 316, an increase of 12% p.a. was considered to be a fair rise in the market value when hypothetically prices were found to have freezed. After taking judicial notice of the fact that prices of land in and around Delhi had risen appreciably between 1959 to 1964, particularly after the Master Plan came into force with effect from 1.9.1962 in Delhi, increase was permitted at 50% as against 25%, which had been allowed by the Reference Court and accordingly the compensation was enhanced. 18. In *Rameshwar Solanki and another v. Union of India* and another discarding the earlier practice, which had been followed by this Court to allow escalation in the market value at the rate of Rs. 1,000/- per bigha per annum on the basis of the ratio of decision in *Prakash Chand Kashyap's* case (supra), it was held that allowing an escalation at the rate of 12% p.a. on the market value instead of at the rate of Rs. 1000/- per bigha per annum over and above the earlier determination will meet the ends of justice. 19. Because of rising trend of market value giving some allowance as escalation in prices to arrive at fair market value for subsequent acquisition, when market value had been determined in earlier acquisition is one of the established method of valuation in land acquisition cases. In *Harbans Lal Jain v. Union of India* escalation at the rate of 100% was allowed when it was noticed that between 1959 to 1962, there was a rise of at least 100% in the prices of land in that area. Under the acquisition, which took place by general notification dated 13.11.1959, market rate had finally been determined by the High Court at Rs. 8/- per sq.yard. For the subsequent acquisition, which took place in 1962, though it was proved that there was at least 100% rise in the prices of land in that area, High Court had enhanced the market value of acquired land only to Rs. 10/- per sq.yard but Supreme Court allowed 100% increase. 20. In *Krishna Yachendra Bahadurvaru v. The Special Land Acquisition Officer, City Improvement Trust Board, Bangalore* and others it was held that process of determination of market value in many cases must depend largely on evaluation of

many imponderables and hence it must necessarily be to some extent a matter of conjecture or guess work. Therefore, similar method of allowing escalation was adopted. It was found that quality of land acquired under the notification of 30.11.1951 and 28.1.1954 was not different from that of the land acquired under the earlier notifications dated 18.4.1946 and 2.4.1956. Therefore, it was held that if the market value of the same quality of land for the same area was at Rs. 6/- per sq.yard on 18.4.1946 and Rs. 12/- per sq.yard on 2.4.1956, it would be reasonable to take the market value on 30.11.1951 and 28.1.1954 at Rs. 9/- per sq.yard being the mean between Rs. 6/- and Rs. 12/- per sq. yard. 21. In *Gokal v. State of Haryana* subject matter under consideration was determination of compensation for land acquired through notifications issued on 20.3.1975, 26.5.1976, 3.9.1976 and 6.1.1978. Having regard to the progressive rise in the market prices between 1974 and 1978, progressive increase was allowed by fixing the market rate per sq. yard at Rs. 20/-, Rs. 25/-, Rs. 26/- and Rs. 30/- respectively for the four notifications. 22. The Reference Court in his decision on the reference petition giving rise to RFA No. 391/2000 took notice of the evidence led before it. Taking Rs. 8064/- per bigha to be the market value of land at Kondli as on 13.11.1959 and in the absence of other evidence that there has been any deterioration in quality of land or slowing down of the pace of rising prices in the market of the land and considering the tremendous pressure on the land because of the vast development in and around Delhi at a very fast rate and placing reliance upon the ratio of the decision of this Court in *Rameshwar Solanki's case* (supra), increase of 12% p.a. was held to be reasonable in order to arrive at a fair market value as on 8.2.1972. Thus Rs. 20,885/- per bigha was held to be the fair market value of land in village Kondli as on 8.2.1973. Decision of Supreme Court in *Mehtab Singh and others v. State of Haryana* was also brought to the notice of the Reference Court wherein it has been held that Amendment Act, 1984 do not permit adoption of 12% increase in prices in each and every acquisition and did not approve its universal application for all acquisitions. However, the Reference Court turned down the submissions on behalf of the respondents observing that facts of this case were peculiar. Supreme Court in *Mehtab Singh's case* (supra) decried the rule of adopting 12% increase in price in each and every acquisition. 23. Assuming that there has been steep rise in prices of the land in and around Delhi and there has been tremendous pressure of building activities in and around Delhi after 1950 or even after 1959, there ought to have been led some evidence by the claimants about the extent of the rise in prices or the extent of pressure in and around the vicinity of the acquired land. In the absence of which it was not permissible for the Reference Court to have adopted the formula of allowing universal increase of 12% p.a. over and above the market value as had been determined on 13.11.1959. Even for the delayed payment of compensation, the rate of interest allowable during 1959 was not more than 6% p.a. No material was brought on record by the claimants that what would have been the extent of escalation. Assuming that escalation was at the normal pace, the entire period from 1959 to 1973 could not be taken as one slot. It ought to have been split up in portions. This Court had, in the absence of any other material, adopted allowing of 6% p.a. increase

over and above the market value fixed in earlier acquisition in order to arrive at fair market value for subsequent acquisition. On the same analogy for the period from 1959 to 1965, we are of the view that it would be reasonable in case of progressive increase at the rate of 6% every year is allowed and for the period from 1965 to 1973 progressive increase at the rate of 10% every year is allowed in order to arrive at a fair market value. Allowing this progressive increase for each year separately over and above the market value of Rs. 8064/- per bigha as on 30.11.1959, we hold that as on 8.2.1973 Rs. 22,850.00 would be the fair market value to which the claimants would be entitled for acquisition of their property acquired through notification dated 8.2.1973. 24. For the subsequent acquisition, which took place through notification dated 19.8.1976 it has to be kept in mind that after the first acquisition of 1959, second acquisition took place after a lapse of 14 years. The third acquisition took place three and half years thereafter. We have to consider the impact of the second acquisition on the market prices. The increase in market prices would not be at the same uniform rate of 10% p.a. but definitely would be more for that period because of the second acquisition. Here also in the absence of any other material, we cannot permit exorbitant increase per annum. Increase has to be reasonable, which in the facts and circumstances, in our view can safely be taken at the rate of 12% p.a. Allowing this increase @ 12% for each year separately the fair market value of lands of village Kondli as on 19.8.1976 is held at Rs. 34, 150.00. 25. Submission made on behalf of the appellants that by making deduction at the rate of 12% p.a. from the market deduction at the rate of 12% p.a. from the market rate determined for subsequent acquisition, which took place in village Kondli, fair market value can be arrived at for the earlier acquisition cannot be accepted. It is not uncommon that considerable appreciation in prices do take place after acquisition of property. While making determination of the amount of compensation for subsequent acquisition, this factor is taken into consideration, therefore, the price arrived at cannot form basis for determination of market value for earlier acquisition since such a factor has to be excluded from consideration and for this reason the submission made on behalf of the appellants has no force and is liable to be rejected. 26. Resultantly, claimants' appeals and cross objection are allowed to the extent aforementioned with proportionate costs. The impugned judgments in each case shall stand modified to that extent enabling and entitling the claimants to compensation at the rate of Rs. 22,850.00 per bigha for the lands, which were acquired through notification dated 8.2.1973 and at the rate of Rs. 34,150.00 per bigha for the lands, which were acquired through notification dated 19.8.1976. Over and above the amount of compensation, the claimants will be paid solatium and interest as per the award of the Reference Court. In addition to the enhanced market value, the claimants will also be paid an additional amount at the rate of 12% p.a. for the period commencing from the date of publication of the notification under sub-section (1) of Section 4 of the Act to the date of award of the Collector or the date of taking over of possession, whichever is earlier, in all cases where the award is made by the Collector after 30.4.1982 or where reference was pending before the reference court on 30.4.1982. Such additional amount will not be

payable to those claimants in whose case the award was made by the Collector prior to 30.4.1982 and reference petition was decided period to 30.4.1982, on the ratio of the judgment of Supreme Court in K.S.Paripoornan v. State of Kerala and others . It is also directed that in case interest is ultimately held payable on solarium by the Supreme Court in a pending reference made to the larger bench by order dated 10.8.1990 in Kapur Chand Jain (dead) and others v. State Government of H.P. and others ; the claimants will also be paid interest accordingly. The appeals of Union of India stands dismissed.